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Am. Sub. S. B. No. 185

Senators Padgett, Schuring, Roberts, Carey, Amstutz, Armbruster, Brady, Dann, Fedor, Fingerhut, Grendell, Hagan, Harris, Jacobson, Miller, Prentiss, Spada, Zurz, Mumper, Clancy, Cates, Wilson, Kearney, Miller, D. Representatives Coley, Smith, G., Wagoner, Hagan, Schneider, Evans, C., Patton, T., White, Smith, S., Stewart, J., Stewart, D., Allen, Healy, Koziura, Boccieri, Widener, Aslanides, Barrett, Beatty, Blessing, Book, Chandler, Collier, DeBose, DeGeeter, Distel, Dolan, Domenick, Driehaus, Evans, D., Fende, Fessler, Flowers, Garrison, Gilb, Hartnett, Harwood, Hughes, Key, Kilbane, Martin, Mason, McGregor, J., McGregor, R., Mitchell, Oelslager, Otterman, Patton, S., Perry, Peterson, Redfern, Reidelbach, Sayre, Schaffer, Schlichter, Skindell, Strahorn, Sykes, Ujvagi, Widowfield, Williams, Woodard, Yates, Yuko

A B I L L

To amend sections 109.572, 1321.57, 1322.02, 1322.03,	1
1322.031, 1322.04, 1322.041, 1322.051, 1322.06,	2
1322.061, 1322.062, 1322.07, 1322.10, 1322.11,	3
1322.99, 1343.011, 1345.01, 1345.02, 1345.03,	4
1345.05, 1345.07, 1345.09, 1349.25, 1349.27,	5
1349.31, 3953.23, 4735.05, 4763.03, 4763.05,	6
4763.06, 4763.12, 4763.13, and 4763.99 and to	7
enact sections 1321.541, 1322.063, 1322.064,	8
1322.074, 1322.075, 1322.081, 1345.031, 1345.091,	9
1349.271, 1349.41, 1349.43, 1349.44, 1349.71,	10
1349.72, 3953.30, 3953.32, 3953.33, 3953.35, and	11
4763.19 of the Revised Code to modify the	12
application of the Consumer Sales Practices Act	13

and the Consumer Credit Mortgage Loan Law; to 14
generally prohibit the appraisal of real estate 15
for a mortgage loan without state certification or 16
licensure; to require that a national criminal 17
background check be conducted on all applicants 18
for a mortgage broker certificate of registration, 19
loan officer license, or real estate appraiser 20
certificate or license; to modify the Mortgage 21
Broker/Loan Officer Law with respect to disclosure 22
of information, duties and standards of care, 23
prohibited acts, record keeping, educational 24
requirements, and pre-licensure examination; to 25
modify the Title Insurance Agent Law; to establish 26
the Consumer Education Finance Board; and to make 27
other changes relative to mortgage lending. 28

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

Section 1. That sections 109.572, 1321.57, 1322.02, 1322.03, 29
1322.031, 1322.04, 1322.041, 1322.051, 1322.06, 1322.061, 30
1322.062, 1322.07, 1322.10, 1322.11, 1322.99, 1343.011, 1345.01, 31
1345.02, 1345.03, 1345.05, 1345.07, 1345.09, 1349.25, 1349.27, 32
1349.31, 3953.23, 4735.05, 4763.03, 4763.05, 4763.06, 4763.12, 33
4763.13, and 4763.99 be amended and sections 1321.541, 1322.063, 34
1322.064, 1322.074, 1322.075, 1322.081, 1345.031, 1345.091, 35
1349.271, 1349.41, 1349.43, 1349.44, 1349.71, 1349.72, 3953.30, 36
3953.32, 3953.33, 3953.35, and 4763.19 of the Revised Code be 37
enacted to read as follows: 38

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 39
section 121.08, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013, or 40
5153.111 of the Revised Code, a completed form prescribed pursuant 41
to division (C)(1) of this section, and a set of fingerprint 42

impressions obtained in the manner described in division (C)(2) of 43
this section, the superintendent of the bureau of criminal 44
identification and investigation shall conduct a criminal records 45
check in the manner described in division (B) of this section to 46
determine whether any information exists that indicates that the 47
person who is the subject of the request previously has been 48
convicted of or pleaded guilty to any of the following: 49

(a) A violation of section 2903.01, 2903.02, 2903.03, 50
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 51
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 52
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 53
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 54
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 55
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 56
2925.06, or 3716.11 of the Revised Code, felonious sexual 57
penetration in violation of former section 2907.12 of the Revised 58
Code, a violation of section 2905.04 of the Revised Code as it 59
existed prior to July 1, 1996, a violation of section 2919.23 of 60
the Revised Code that would have been a violation of section 61
2905.04 of the Revised Code as it existed prior to July 1, 1996, 62
had the violation been committed prior to that date, or a 63
violation of section 2925.11 of the Revised Code that is not a 64
minor drug possession offense; 65

(b) A violation of an existing or former law of this state, 66
any other state, or the United States that is substantially 67
equivalent to any of the offenses listed in division (A)(1)(a) of 68
this section. 69

(2) On receipt of a request pursuant to section 5123.081 of 70
the Revised Code with respect to an applicant for employment in 71
any position with the department of mental retardation and 72
developmental disabilities, pursuant to section 5126.28 of the 73
Revised Code with respect to an applicant for employment in any 74

position with a county board of mental retardation and 75
developmental disabilities, or pursuant to section 5126.281 of the 76
Revised Code with respect to an applicant for employment in a 77
direct services position with an entity contracting with a county 78
board for employment, a completed form prescribed pursuant to 79
division (C)(1) of this section, and a set of fingerprint 80
impressions obtained in the manner described in division (C)(2) of 81
this section, the superintendent of the bureau of criminal 82
identification and investigation shall conduct a criminal records 83
check. The superintendent shall conduct the criminal records check 84
in the manner described in division (B) of this section to 85
determine whether any information exists that indicates that the 86
person who is the subject of the request has been convicted of or 87
pleaded guilty to any of the following: 88

(a) A violation of section 2903.01, 2903.02, 2903.03, 89
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 90
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 91
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 92
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 93
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 94
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 95
2925.03, or 3716.11 of the Revised Code; 96

(b) An existing or former municipal ordinance or law of this 97
state, any other state, or the United States that is substantially 98
equivalent to any of the offenses listed in division (A)(2)(a) of 99
this section. 100

(3) On receipt of a request pursuant to section 173.27, 101
173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a 102
completed form prescribed pursuant to division (C)(1) of this 103
section, and a set of fingerprint impressions obtained in the 104
manner described in division (C)(2) of this section, the 105
superintendent of the bureau of criminal identification and 106

investigation shall conduct a criminal records check with respect 107
to any person who has applied for employment in a position for 108
which a criminal records check is required by those sections. The 109
superintendent shall conduct the criminal records check in the 110
manner described in division (B) of this section to determine 111
whether any information exists that indicates that the person who 112
is the subject of the request previously has been convicted of or 113
pleaded guilty to any of the following: 114

(a) A violation of section 2903.01, 2903.02, 2903.03, 115
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 116
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 117
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 118
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 119
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 120
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 121
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 122
2925.22, 2925.23, or 3716.11 of the Revised Code; 123

(b) An existing or former law of this state, any other state, 124
or the United States that is substantially equivalent to any of 125
the offenses listed in division (A)(3)(a) of this section. 126

(4) On receipt of a request pursuant to section 3701.881 of 127
the Revised Code with respect to an applicant for employment with 128
a home health agency as a person responsible for the care, 129
custody, or control of a child, a completed form prescribed 130
pursuant to division (C)(1) of this section, and a set of 131
fingerprint impressions obtained in the manner described in 132
division (C)(2) of this section, the superintendent of the bureau 133
of criminal identification and investigation shall conduct a 134
criminal records check. The superintendent shall conduct the 135
criminal records check in the manner described in division (B) of 136
this section to determine whether any information exists that 137
indicates that the person who is the subject of the request 138

previously has been convicted of or pleaded guilty to any of the 139
following: 140

(a) A violation of section 2903.01, 2903.02, 2903.03, 141
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 142
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 143
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 144
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 145
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 146
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 147
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 148
violation of section 2925.11 of the Revised Code that is not a 149
minor drug possession offense; 150

(b) An existing or former law of this state, any other state, 151
or the United States that is substantially equivalent to any of 152
the offenses listed in division (A)(4)(a) of this section. 153

(5) On receipt of a request pursuant to section 5111.95 or 154
5111.96 of the Revised Code with respect to an applicant for 155
employment with a waiver agency participating in a department of 156
job and family services administered home and community-based 157
waiver program or an independent provider participating in a 158
department administered home and community-based waiver program in 159
a position that involves providing home and community-based waiver 160
services to consumers with disabilities, a completed form 161
prescribed pursuant to division (C)(1) of this section, and a set 162
of fingerprint impressions obtained in the manner described in 163
division (C)(2) of this section, the superintendent of the bureau 164
of criminal identification and investigation shall conduct a 165
criminal records check. The superintendent shall conduct the 166
criminal records check in the manner described in division (B) of 167
this section to determine whether any information exists that 168
indicates that the person who is the subject of the request 169
previously has been convicted of or pleaded guilty to any of the 170

following: 171

(a) A violation of section 2903.01, 2903.02, 2903.03, 172
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 173
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 174
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 175
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 176
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 177
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 178
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 179
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 180
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 181
Revised Code, felonious sexual penetration in violation of former 182
section 2907.12 of the Revised Code, a violation of section 183
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 184
violation of section 2919.23 of the Revised Code that would have 185
been a violation of section 2905.04 of the Revised Code as it 186
existed prior to July 1, 1996, had the violation been committed 187
prior to that date; 188

(b) An existing or former law of this state, any other state, 189
or the United States that is substantially equivalent to any of 190
the offenses listed in division (A)(5)(a) of this section. 191

(6) On receipt of a request pursuant to section 3701.881 of 192
the Revised Code with respect to an applicant for employment with 193
a home health agency in a position that involves providing direct 194
care to an older adult, a completed form prescribed pursuant to 195
division (C)(1) of this section, and a set of fingerprint 196
impressions obtained in the manner described in division (C)(2) of 197
this section, the superintendent of the bureau of criminal 198
identification and investigation shall conduct a criminal records 199
check. The superintendent shall conduct the criminal records check 200
in the manner described in division (B) of this section to 201
determine whether any information exists that indicates that the 202

person who is the subject of the request previously has been 203
convicted of or pleaded guilty to any of the following: 204

(a) A violation of section 2903.01, 2903.02, 2903.03, 205
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 206
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 207
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 208
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 209
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 210
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 211
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 212
2925.22, 2925.23, or 3716.11 of the Revised Code; 213

(b) An existing or former law of this state, any other state, 214
or the United States that is substantially equivalent to any of 215
the offenses listed in division (A)(6)(a) of this section. 216

(7) When conducting a criminal records check upon a request 217
pursuant to section 3319.39 of the Revised Code for an applicant 218
who is a teacher, in addition to the determination made under 219
division (A)(1) of this section, the superintendent shall 220
determine whether any information exists that indicates that the 221
person who is the subject of the request previously has been 222
convicted of or pleaded guilty to any offense specified in section 223
3319.31 of the Revised Code. 224

(8) On a request pursuant to section 2151.86 of the Revised 225
Code, a completed form prescribed pursuant to division (C)(1) of 226
this section, and a set of fingerprint impressions obtained in the 227
manner described in division (C)(2) of this section, the 228
superintendent of the bureau of criminal identification and 229
investigation shall conduct a criminal records check in the manner 230
described in division (B) of this section to determine whether any 231
information exists that indicates that the person who is the 232
subject of the request previously has been convicted of or pleaded 233
guilty to any of the following: 234

(a) A violation of section 2903.01, 2903.02, 2903.03, 235
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 236
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 237
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 238
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 239
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 240
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 241
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a 242
violation of section 2905.04 of the Revised Code as it existed 243
prior to July 1, 1996, a violation of section 2919.23 of the 244
Revised Code that would have been a violation of section 2905.04 245
of the Revised Code as it existed prior to July 1, 1996, had the 246
violation been committed prior to that date, a violation of 247
section 2925.11 of the Revised Code that is not a minor drug 248
possession offense, or felonious sexual penetration in violation 249
of former section 2907.12 of the Revised Code; 250

(b) A violation of an existing or former law of this state, 251
any other state, or the United States that is substantially 252
equivalent to any of the offenses listed in division (A)(8)(a) of 253
this section. 254

(9) When conducting a criminal records check on a request 255
pursuant to section 5104.013 of the Revised Code for a person who 256
is an owner, licensee, or administrator of a child day-care center 257
or type A family day-care home or an authorized provider of a 258
certified type B family day-care home, the superintendent, in 259
addition to the determination made under division (A)(1) of this 260
section, shall determine whether any information exists that 261
indicates that the person has been convicted of or pleaded guilty 262
to any of the following: 263

(a) A violation of section 2913.02, 2913.03, 2913.04, 264
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 265
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 266

2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2921.11, 267
2921.13, or 2923.01 of the Revised Code, a violation of section 268
2923.02 or 2923.03 of the Revised Code that relates to a crime 269
specified in this division or division (A)(1)(a) of this section, 270
or a second violation of section 4511.19 of the Revised Code 271
within five years of the date of application for licensure or 272
certification. 273

(b) A violation of an existing or former law of this state, 274
any other state, or the United States that is substantially 275
equivalent to any of the offenses or violations described in 276
division (A)(9)(a) of this section. 277

(10) On receipt of a request for a criminal records check 278
from an individual pursuant to section 4749.03 or 4749.06 of the 279
Revised Code, accompanied by a completed copy of the form 280
prescribed in division (C)(1) of this section and a set of 281
fingerprint impressions obtained in a manner described in division 282
(C)(2) of this section, the superintendent of the bureau of 283
criminal identification and investigation shall conduct a criminal 284
records check in the manner described in division (B) of this 285
section to determine whether any information exists indicating 286
that the person who is the subject of the request has been 287
convicted of or pleaded guilty to a felony in this state or in any 288
other state. If the individual indicates that a firearm will be 289
carried in the course of business, the superintendent shall 290
require information from the federal bureau of investigation as 291
described in division (B)(2) of this section. The superintendent 292
shall report the findings of the criminal records check and any 293
information the federal bureau of investigation provides to the 294
director of public safety. 295

(11) On receipt of a request pursuant to section 1322.03, 296
1322.031, or 4763.05 of the Revised Code, a completed form 297
prescribed pursuant to division (C)(1) of this section, and a set 298

of fingerprint impressions obtained in the manner described in 299
division (C)(2) of this section, the superintendent of the bureau 300
of criminal identification and investigation shall conduct a 301
criminal records check with respect to any person who has applied 302
for a license, permit, or certification from the department of 303
commerce or a division in the department. The superintendent shall 304
conduct the criminal records check in the manner described in 305
division (B) of this section to determine whether any information 306
exists that indicates that the person who is the subject of the 307
request previously has been convicted of or pleaded guilty to any 308
of the following: a violation of section 2913.02, 2913.11, 309
2913.31, 2913.51, or 2925.03 of the Revised Code; any other 310
criminal offense involving theft, receiving stolen property, 311
embezzlement, forgery, fraud, passing bad checks, money 312
laundering, or drug trafficking, or any criminal offense involving 313
money or securities, as set forth in Chapters 2909., 2911., 2913., 314
2915., 2921., 2923., and 2925. of the Revised Code; or any 315
existing or former law of this state, any other state, or the 316
United States that is substantially equivalent to those offenses. 317

(12) Not later than thirty days after the date the 318
superintendent receives the request, completed form, and 319
fingerprint impressions, the superintendent shall send the person, 320
board, or entity that made the request any information, other than 321
information the dissemination of which is prohibited by federal 322
law, the superintendent determines exists with respect to the 323
person who is the subject of the request that indicates that the 324
person previously has been convicted of or pleaded guilty to any 325
offense listed or described in division (A)(1), (2), (3), (4), 326
(5), (6), (7), (8), (9), ~~or (10)~~, or (11) of this section, as 327
appropriate. The superintendent shall send the person, board, or 328
entity that made the request a copy of the list of offenses 329
specified in division (A)(1), (2), (3), (4), (5), (6), (7), (8), 330
(9), ~~or (10)~~, or (11) of this section, as appropriate. If the 331

request was made under section 3701.881 of the Revised Code with 332
regard to an applicant who may be both responsible for the care, 333
custody, or control of a child and involved in providing direct 334
care to an older adult, the superintendent shall provide a list of 335
the offenses specified in divisions (A)(4) and (6) of this 336
section. 337

(B) The superintendent shall conduct any criminal records 338
check requested under section 121.08, 173.27, 173.394, 1322.03, 339
1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 340
3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 341
5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the 342
Revised Code as follows: 343

(1) The superintendent shall review or cause to be reviewed 344
any relevant information gathered and compiled by the bureau under 345
division (A) of section 109.57 of the Revised Code that relates to 346
the person who is the subject of the request, including any 347
relevant information contained in records that have been sealed 348
under section 2953.32 of the Revised Code; 349

(2) If the request received by the superintendent asks for 350
information from the federal bureau of investigation, the 351
superintendent shall request from the federal bureau of 352
investigation any information it has with respect to the person 353
who is the subject of the request and shall review or cause to be 354
reviewed any information the superintendent receives from that 355
bureau. 356

(3) The superintendent or the superintendent's designee may 357
request criminal history records from other states or the federal 358
government pursuant to the national crime prevention and privacy 359
compact set forth in section 109.571 of the Revised Code. 360

(C)(1) The superintendent shall prescribe a form to obtain 361
the information necessary to conduct a criminal records check from 362

any person for whom a criminal records check is required by 363
section 121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 364
3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 365
4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 5111.96, 366
5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The 367
form that the superintendent prescribes pursuant to this division 368
may be in a tangible format, in an electronic format, or in both 369
tangible and electronic formats. 370

(2) The superintendent shall prescribe standard impression 371
sheets to obtain the fingerprint impressions of any person for 372
whom a criminal records check is required by section 121.08, 373
173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 374
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 375
4763.05, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 376
5126.281, or 5153.111 of the Revised Code. Any person for whom a 377
records check is required by any of those sections shall obtain 378
the fingerprint impressions at a county sheriff's office, 379
municipal police department, or any other entity with the ability 380
to make fingerprint impressions on the standard impression sheets 381
prescribed by the superintendent. The office, department, or 382
entity may charge the person a reasonable fee for making the 383
impressions. The standard impression sheets the superintendent 384
prescribes pursuant to this division may be in a tangible format, 385
in an electronic format, or in both tangible and electronic 386
formats. 387

(3) Subject to division (D) of this section, the 388
superintendent shall prescribe and charge a reasonable fee for 389
providing a criminal records check requested under section 121.08, 390
173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 391
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 392
4763.05, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 393
5126.281, or 5153.111 of the Revised Code. The person making a 394

criminal records request under section 121.08, 173.27, 173.394, 395
1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 396
3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 397
5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 398
5153.111 of the Revised Code shall pay the fee prescribed pursuant 399
to this division. A person making a request under section 3701.881 400
of the Revised Code for a criminal records check for an applicant 401
who may be both responsible for the care, custody, or control of a 402
child and involved in providing direct care to an older adult 403
shall pay one fee for the request. 404

(4) The superintendent of the bureau of criminal 405
identification and investigation may prescribe methods of 406
forwarding fingerprint impressions and information necessary to 407
conduct a criminal records check, which methods shall include, but 408
not be limited to, an electronic method. 409

(D) A determination whether any information exists that 410
indicates that a person previously has been convicted of or 411
pleaded guilty to any offense listed or described in division 412
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 413
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7)(a) or (b), 414
(A)(8)(a) or (b), ~~or~~ (A)(9)(a) or (b), or (A)(11) of this section 415
that is made by the superintendent with respect to information 416
considered in a criminal records check in accordance with this 417
section is valid for the person who is the subject of the criminal 418
records check for a period of one year from the date upon which 419
the superintendent makes the determination. During the period in 420
which the determination in regard to a person is valid, if another 421
request under this section is made for a criminal records check 422
for that person, the superintendent shall provide the information 423
that is the basis for the superintendent's initial determination 424
at a lower fee than the fee prescribed for the initial criminal 425
records check. 426

(E) As used in this section: 427

(1) "Criminal records check" means any criminal records check 428
conducted by the superintendent of the bureau of criminal 429
identification and investigation in accordance with division (B) 430
of this section. 431

(2) "Home and community-based waiver services" and "waiver 432
agency" have the same meanings as in section 5111.95 of the 433
Revised Code. 434

(3) "Independent provider" has the same meaning as in section 435
5111.96 of the Revised Code. 436

(4) "Minor drug possession offense" has the same meaning as 437
in section 2925.01 of the Revised Code. 438

(5) "Older adult" means a person age sixty or older. 439

Sec. 1321.541. (A) The attorney general may directly bring an 440
action to enjoin a violation of sections 1321.51 to 1321.60 of the 441
Revised Code with the same rights, privileges, and powers as those 442
described in section 1345.06 of the Revised Code. The prosecuting 443
attorney of the county in which the action may be brought may 444
bring an action to enjoin a violation of sections 1321.51 to 445
1321.60 of the Revised Code only if the prosecuting attorney first 446
presents any evidence of the violation to the attorney general 447
and, within a reasonable period of time, the attorney general has 448
not agreed to bring the action. 449

(B)(1) The prosecuting attorney of the county in which an 450
alleged offense may be prosecuted may initiate criminal 451
proceedings under sections 1321.51 to 1321.60 of the Revised Code. 452

(2) In order to initiate criminal proceedings under sections 453
1321.51 to 1321.60 of the Revised Code, the attorney general shall 454
first present any evidence of criminal violations to the 455
prosecuting attorney of the county in which the alleged offense 456

may be prosecuted. If, within a reasonable period of time, the 457
prosecuting attorney has not agreed to prosecute the violations, 458
the attorney general may proceed in the prosecution with all the 459
rights, privileges, and powers conferred by law on prosecuting 460
attorneys, including the power to appear before grand juries and 461
to interrogate witnesses before such grand juries. 462

(C) These powers of the attorney general shall be in addition 463
to any other applicable powers of the attorney general. 464

Sec. 1321.57. (A) Notwithstanding any other provisions of the 465
Revised Code, a registrant may contract for and receive interest, 466
calculated according to the actuarial method, at a rate or rates 467
not exceeding twenty-one per cent per year on the unpaid principal 468
balances of the loan. Loans may be interest-bearing or 469
precomputed. 470

(B) For purposes of computation of time on interest-bearing 471
and precomputed loans, including, but not limited to, the 472
calculation of interest, a month is considered one-twelfth of a 473
year, and a day is considered one three hundred sixty-fifth of a 474
year when calculation is made for a fraction of a month. A year is 475
as defined in section 1.44 of the Revised Code. A month is that 476
period described in section 1.45 of the Revised Code. 477
Alternatively, a registrant may consider a day as one three 478
hundred sixtieth of a year and each month as having thirty days. 479

(C) With respect to interest-bearing loans: 480

(1)(a) Interest shall be computed on unpaid principal 481
balances outstanding from time to time, for the time outstanding. 482

(b) As an alternative to the method of computing interest set 483
forth in division (C)(1)(a) of this section, a registrant may 484
charge and collect interest for the first installment period based 485
on elapsed time from the date of the loan to the first scheduled 486

payment due date, and for each succeeding installment period from 487
the scheduled payment due date to the next scheduled payment due 488
date, regardless of the date or dates the payments are actually 489
made. 490

(c) Whether a registrant computes interest pursuant to 491
division (C)(1)(a) or (b) of this section, each payment shall be 492
applied first to unpaid charges, then to interest, and the 493
remainder to the unpaid principal balance. However, if the amount 494
of the payment is insufficient to pay the accumulated interest, 495
the unpaid interest continues to accumulate to be paid from the 496
proceeds of subsequent payments and is not added to the principal 497
balance. 498

(2) Interest shall not be compounded, collected, or paid in 499
advance. However, both of the following apply: 500

(a) Interest may be charged to extend the first monthly 501
installment period by not more than fifteen days, and the interest 502
charged for the extension may be added to the principal amount of 503
the loan. 504

(b) If part or all of the consideration for a new loan 505
contract is the unpaid principal balance of a prior loan, the 506
principal amount payable under the new loan contract may include 507
any unpaid interest that has accrued. The resulting loan contract 508
shall be deemed a new and separate loan transaction for purposes 509
of this section. The unpaid principal balance of a precomputed 510
loan is the balance due after refund or credit of unearned 511
interest as provided in division (D)(3) of this section. 512

(D) With respect to precomputed loans: 513

(1) Loans shall be repayable in monthly installments of 514
principal and interest combined, except that the first installment 515
period may exceed one month by not more than fifteen days, and the 516
first installment payment amount may be larger than the remaining 517

payments by the amount of interest charged for the extra days; and 518
provided further that monthly installment payment dates may be 519
omitted to accommodate borrowers with seasonal income. 520

(2) Payments may be applied to the combined total of 521
principal and precomputed interest until maturity of the loan. A 522
registrant may charge interest after the original or deferred 523
maturity of a precomputed loan at the rate specified in division 524
(A) of this section on all unpaid principal balances for the time 525
outstanding. 526

(3) When any loan contract is paid in full by cash, renewal, 527
refinancing, or a new loan, one month or more before the final 528
installment due date, the registrant shall refund, or credit the 529
borrower with, the total of the applicable charges for all fully 530
unexpired installment periods, as originally scheduled or as 531
deferred, that follow the day of prepayment. If the prepayment is 532
made other than on a scheduled installment due date, the nearest 533
scheduled installment due date shall be used in such computation. 534
If the prepayment occurs prior to the first installment due date, 535
the registrant may retain one-thirtieth of the applicable charge 536
for a first installment period of one month for each day from date 537
of loan to date of prepayment, and shall refund, or credit the 538
borrower with, the balance of the total interest contracted for. 539
If the maturity of the loan is accelerated for any reason and 540
judgment is entered, the registrant shall credit the borrower with 541
the same refund as if prepayment in full had been made on the date 542
the judgment is entered. 543

(4) If the parties agree in writing, either in the loan 544
contract or in a subsequent agreement, to a deferment of wholly 545
unpaid installments, a registrant may grant a deferment and may 546
collect a deferment charge as provided in this section. A 547
deferment postpones the scheduled due date of the earliest unpaid 548
installment and all subsequent installments as originally 549

scheduled, or as previously deferred, for a period equal to the 550
deferment period. The deferment period is that period during which 551
no installment is scheduled to be paid by reason of the deferment. 552
The deferment charge for a one-month period may not exceed the 553
applicable charge for the installment period immediately following 554
the due date of the last undeferred installment. A proportionate 555
charge may be made for deferment for periods of more or less than 556
one month. A deferment charge is earned pro rata during the 557
deferment period and is fully earned on the last day of the 558
deferment period. If a loan is prepaid in full during a deferment 559
period, the registrant shall make, or credit to the borrower, a 560
refund of the unearned deferment charge in addition to any other 561
refund or credit made for prepayment of the loan in full. 562

(E) A registrant, at the request of the borrower, may obtain, 563
on one or more borrowers, credit life insurance, credit accident 564
and health insurance, and unemployment insurance. The premium or 565
identifiable charge for the insurance may be included in the 566
principal amount of the loan and may not exceed the premium rate 567
filed by the insurer with the superintendent of insurance and not 568
disapproved by the superintendent. If a registrant obtains the 569
insurance at the request of the borrower, the borrower shall have 570
the right to cancel the insurance for a period of twenty-five days 571
after the loan is made. If the borrower chooses to cancel the 572
insurance, the borrower shall give the registrant written notice 573
of this choice and shall return all of the policies or 574
certificates of insurance or notices of proposed insurance to the 575
registrant during such period, and the full premium or 576
identifiable charge for the insurance shall be refunded to the 577
borrower by the registrant. If the borrower requests, in the 578
notice to cancel the insurance, that this refund be applied to 579
reduce the balance of a precomputed loan, the registrant shall 580
credit the amount of the refund plus the amount of interest 581
applicable to the refund to the loan balance. 582

If the registrant obtains the insurance at the request of the 583
borrower, the registrant shall not charge or collect interest on 584
any insured amount that remains unpaid after the insured 585
borrower's date of death. 586

(F) A registrant may require the borrower to provide 587
insurance or a loss payable endorsement covering reasonable risks 588
of loss, damage, and destruction of property used as security for 589
the loan and with the consent of the borrower such insurance may 590
cover property other than that which is security for the loan. The 591
amount and term of required property insurance shall be reasonable 592
in relation to the amount and term of the loan contract and the 593
type and value of the security, and the insurance shall be 594
procured in accordance with the insurance laws of this state. The 595
purchase of this insurance through the registrant or an agent or 596
broker designated by the registrant shall not be a condition 597
precedent to the granting of the loan. If the borrower purchases 598
the insurance from or through the registrant or from another 599
source, the premium may be included in the principal amount of the 600
loan. 601

(G) On loans secured by an interest in real estate, all of 602
the following apply: 603

(1) A registrant may charge and receive up to two points, and 604
a prepayment penalty not in excess of one per cent of the original 605
principal amount of the loan. Points may be paid by the borrower 606
at the time of the loan or may be included in the principal amount 607
of the loan. On a refinancing, a registrant may not charge under 608
division (G)(1) of this section either of the following: 609

(a) Points on the portion of the principal amount that is 610
applied to the unpaid principal amount of the refinanced loan, if 611
the refinancing occurs within one year after the date of the 612
refinanced loan on which points were charged; 613

(b) A prepayment penalty. 614

(2) As an alternative to the prepayment penalty described in 615
division (G)(1) of this section, a registrant may contract for, 616
charge, and receive the prepayment penalty described in division 617
(G)(2) of this section for the prepayment of a loan prior to ~~three~~ 618
two years after the date the loan contract is executed. This 619
prepayment penalty shall not exceed ~~three~~ two per cent of the 620
original principal amount of the loan if the loan is paid in full 621
prior to one year after the date the loan contract is executed. 622
The penalty shall not exceed ~~two~~ one per cent of the original 623
principal amount of the loan if the loan is paid in full at any 624
time from one year, but prior to two years, after the date the 625
loan contract is executed. ~~The penalty shall not exceed one per~~ 626
~~cent of the original principal amount of the loan if the loan is~~ 627
~~paid in full at any time from two years, but prior to three years,~~ 628
~~after the date the loan contract is executed.~~ A registrant shall 629
not charge or receive a prepayment penalty under division (G)(2) 630
of this section if any of the following applies: 631

(a) The loan is a refinancing by the same registrant or a 632
registrant to whom the loan has been assigned; 633

(b) The loan is paid in full as a result of the sale of the 634
real estate that secures the loan; 635

(c) The loan is paid in full with the proceeds of an 636
insurance claim against an insurance policy that insures the life 637
of the borrower or an insurance policy that covers loss, damage, 638
or destruction of the real estate that secures the loan. 639

(3) Division (G) of this section is not a limitation on 640
discount points or other charges for purposes of section 501(b)(4) 641
of the "Depository Institutions Deregulation and Monetary Control 642
Act of 1980," 94 Stat. 161, 12 U.S.C.A. 1735f-7 note. 643

(H)(1) In addition to the interest and charges provided for 644

by this section, no further or other amount, whether in the form 645
of broker fees, placement fees, or any other fees whatsoever, 646
shall be charged or received by the registrant, except costs and 647
disbursements in connection with any suit to collect a loan or any 648
lawful activity to realize on a security interest or mortgage 649
after default, including reasonable attorney fees incurred by the 650
registrant as a result of the suit or activity and to which the 651
registrant becomes entitled by law, and except the following 652
additional charges which may be included in the principal amount 653
of the loan or collected at any time after the loan is made: 654

(a) The amounts of fees authorized by law to record, file, or 655
release security interests and mortgages on a loan; 656

(b) With respect to a loan secured by an interest in real 657
estate, the following closing costs, if they are bona fide, 658
reasonable in amount, and not for the purpose of circumvention or 659
evasion of this section: 660

(i) Fees or premiums for title examination, abstract of 661
title, title insurance, surveys, title endorsements, title 662
binders, title commitments, home inspections, or pest inspections; 663
settlement or closing costs; courier fees; and any federally 664
mandated flood plain certification fee; 665

(ii) If not paid to the registrant, an employee of the 666
registrant, or a person related to the registrant, fees for 667
preparation of a mortgage, settlement statement, or other 668
documents, fees for notarizing mortgages and other documents, 669
appraisal fees, and fees for any federally mandated inspection of 670
home improvement work financed by a second mortgage loan; 671

(c) Fees for credit investigations not exceeding ten dollars. 672

(2) Division (H)(1) of this section does not limit the rights 673
of registrants to engage in other transactions with borrowers, 674
provided the transactions are not a condition of the loan. 675

(I) If the loan contract or security instrument contains 676
covenants by the borrower to perform certain duties pertaining to 677
insuring or preserving security and the registrant pursuant to the 678
loan contract or security instrument pays for performance of the 679
duties on behalf of the borrower, the registrant may add the 680
amounts paid to the unpaid principal balance of the loan or 681
collect them separately. A charge for interest may be made for 682
sums advanced not exceeding the rate of interest permitted by 683
division (A) of this section. Within a reasonable time after 684
advancing a sum, the registrant shall notify the borrower in 685
writing of the amount advanced, any interest charged with respect 686
to the amount advanced, any revised payment schedule, and shall 687
include a brief description of the reason for the advance. 688

(J)(1) In addition to points authorized under division (G) of 689
this section, a registrant may charge and receive the following: 690

(a) With respect to secured loans: if the principal amount of 691
the loan is less than five hundred dollars, loan origination 692
charges not exceeding fifteen dollars; if the principal amount of 693
the loan is at least five hundred dollars but less than one 694
thousand dollars, loan origination charges not exceeding thirty 695
dollars; if the principal amount of the loan is at least one 696
thousand dollars but less than two thousand dollars, loan 697
origination charges not exceeding one hundred dollars; if the 698
principal amount of the loan is at least two thousand dollars but 699
less than five thousand dollars, loan origination charges not 700
exceeding two hundred dollars; and if the principal amount of the 701
loan is at least five thousand dollars, loan origination charges 702
not exceeding the greater of two hundred fifty dollars or one per 703
cent of the principal amount of the loan. 704

(b) With respect to unsecured loans: if the principal amount 705
of the loan is less than five hundred dollars, loan origination 706
charges not exceeding fifteen dollars; if the principal amount of 707

the loan is at least five hundred dollars but less than one 708
thousand dollars, loan origination charges not exceeding thirty 709
dollars; if the principal amount of the loan is at least one 710
thousand dollars but less than five thousand dollars, loan 711
origination charges not exceeding one hundred dollars; and if the 712
principal amount of the loan is at least five thousand dollars, 713
loan origination charges not exceeding the greater of two hundred 714
fifty dollars or one per cent of the principal amount of the loan. 715

(2) If a refinancing occurs within ninety days after the date 716
of the refinanced loan, a registrant may not impose loan 717
origination charges on the portion of the principal amount that is 718
applied to the unpaid principal amount of the refinanced loan. 719

(3) Loan origination charges may be paid by the borrower at 720
the time of the loan or may be included in the principal amount of 721
the loan. 722

(K) A registrant may charge and receive check collection 723
charges not greater than twenty dollars plus any amount passed on 724
from other financial institutions for each check, negotiable order 725
of withdrawal, share draft, or other negotiable instrument 726
returned or dishonored for any reason. 727

(L) If the loan contract so provides, a registrant may 728
collect a default charge on any installment not paid in full 729
within ten days after its due date. For this purpose, all 730
installments are considered paid in the order in which they become 731
due. Any amounts applied to an outstanding loan balance as a 732
result of voluntary release of a security interest, sale of 733
security on the loan, or cancellation of insurance shall be 734
considered payments on the loan, unless the parties otherwise 735
agree in writing at the time the amounts are applied. The amount 736
of the default charge shall not exceed the greater of five per 737
cent of the scheduled installment or fifteen dollars. 738

Sec. 1322.02. (A)(1) No person, on the person's own behalf or 739
on behalf of any other person, shall act as a mortgage broker 740
without first having obtained a certificate of registration from 741
the superintendent of financial institutions for every office to 742
be maintained by the person for the transaction of business as a 743
mortgage broker in this state. A registrant shall maintain an 744
office location in this state for the transaction of business as a 745
mortgage broker in this state. 746

(2) No person shall act or hold that person's self out as a 747
mortgage broker under the authority or name of a registrant or 748
person exempt from sections 1322.01 to 1322.12 of the Revised Code 749
without first having obtained a certificate of registration from 750
the superintendent for every office to be maintained by the person 751
for the transaction of business as a mortgage broker in this 752
state. 753

(B) No person, on the person's own behalf or on behalf of any 754
other person, shall act as a loan officer without first having 755
obtained a license from the superintendent. A loan officer shall 756
not be employed by more than one mortgage broker at any one time. 757

(C)(1) The following persons are exempt from sections 1322.01 758
to 1322.12 of the Revised Code only with respect to business 759
engaged in or authorized by their charter, license, authority, 760
approval, or certificate, or as otherwise authorized by division 761
(C)(1)(g) of this section: 762

(a) A bank, savings bank, savings and loan association, ~~or~~ 763
credit union, or credit union service organization organized under 764
the laws of this state, another state, or the United States, or a 765
subsidiary or affiliate of a bank, savings bank, savings and loan 766
association, ~~or credit union~~, or credit union service 767
organization. As used in this division, "affiliate" means an 768
entity that controls, is controlled by, or is under common control 769

with, a bank, savings bank, savings and loan association, credit 770
union, or credit union service organization and that the board of 771
governors of the federal reserve system, the comptroller of the 772
currency, the office of thrift supervision, the federal deposit 773
insurance corporation, or the national credit union administration 774
has the authority to examine, supervise, and regulate including 775
with respect to the affiliate's compliance with applicable 776
consumer protection requirements. 777

(b) A budget and debt counseling service, as defined in 778
division (D) of section 2716.03 of the Revised Code, provided that 779
the service is a nonprofit organization exempt from taxation under 780
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 781
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 782
in compliance with Chapter 4710. of the Revised Code; 783

(c) A consumer reporting agency that is in substantial 784
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 785
U.S.C.A. 1681a, as amended; 786

(d) Any political subdivision, or any governmental or other 787
public entity, corporation, or agency, in or of the United States 788
or any state of the United States; 789

(e) A college or university, or controlled entity of a 790
college or university, as defined in section 1713.05 of the 791
Revised Code; 792

(f) A person registered under sections 1321.51 to 1321.60 of 793
the Revised Code, provided that not more than five per cent of the 794
person's mortgage loans constitute table-funding mortgage loans or 795
warehouse-lending mortgage loans. Division (C)(1)(f) of this 796
section does not include any person that is also registered or 797
licensed under sections 1322.01 to 1322.12 of the Revised Code. 798

(g) A mortgage banker. For purposes of division (C)(1)(g) of 799
this section, "mortgage banker" means any person that makes, 800

services, buys, or sells mortgage loans, that underwrites the 801
loans, and that meets at least one of the following criteria: 802

(i) The person has been directly approved by the United 803
States department of housing and urban development as a 804
nonsupervised mortgagee with participation in the direct 805
endorsement program. Division (C) (1) (g) (i) of this section 806
includes a person that has been directly approved by the United 807
States department of housing and urban development as a 808
nonsupervised mortgagee with participation in the direct 809
endorsement program and that makes loans in excess of the 810
applicable loan limit set by the federal national mortgage 811
association, provided that the loans in all respects, except loan 812
amounts, comply with the underwriting and documentation 813
requirements of the United States department of housing and urban 814
development. Division (C)(1)(g)(i) of this section does not 815
include a mortgagee approved as a loan correspondent. 816

(ii) The person has been directly approved by the federal 817
national mortgage association as a seller/servicer. Division (C) 818
(1) (g) (ii) of this section includes a person that has been 819
directly approved by the federal national mortgage association as 820
a seller/servicer and that makes loans in excess of the applicable 821
loan limit set by the federal national mortgage association, 822
provided that the loans in all respects, except loan amounts, 823
comply with the underwriting and documentation requirements of the 824
federal national mortgage association. 825

(iii) The person has been directly approved by the federal 826
home loan mortgage corporation as a seller/servicer. Division (C) 827
(1) (g) (iii) of this section includes a person that has been 828
directly approved by the federal home loan mortgage corporation as 829
a seller/servicer and that makes loans in excess of the applicable 830
loan limit set by the federal home loan mortgage corporation, 831
provided that the loans in all respects, except loan amounts, 832

comply with the underwriting and documentation requirements of the 833
federal home loan mortgage corporation. 834

(iv) The person has been directly approved by the United 835
States department of veterans affairs as a nonsupervised automatic 836
lender. Division (C)(1)(g)(iv) of this section does not include a 837
person directly approved by the United States department of 838
veterans affairs as a nonsupervised lender, an agent of a 839
nonsupervised automatic lender, or an agent of a nonsupervised 840
lender. 841

(h) A person created solely for the purpose of securitizing 842
loans secured by an interest in real estate, provided the person 843
does not service the loans. For purposes of division (C)(1)(h) of 844
this section, "securitizing" means the packaging and sale of 845
mortgage loans as a unit for sale as investment securities, but 846
only to the extent of those activities. 847

(2) Any individual who is employed by a person exempt from 848
sections 1322.01 to 1322.12 of the Revised Code is also exempt 849
from those sections to the extent the individual is acting within 850
the scope of the individual's employment and within the scope of 851
the exempt person's charter, license, authority, approval, or 852
certificate. 853

Sec. 1322.03. (A) An application for a certificate of 854
registration as a mortgage broker shall be in writing, under oath, 855
and in the form prescribed by the superintendent of financial 856
institutions. The application shall be accompanied by a 857
nonrefundable application fee of three hundred fifty dollars for 858
each location of an office to be maintained by the applicant in 859
accordance with division (A) of section 1322.02 of the Revised 860
Code; however, an applicant that is registered under sections 861
1321.51 to 1321.60 of the Revised Code shall not be required to 862
pay an application fee. The application shall provide all of the 863

following: 864

(1) The location or locations where the business is to be 865
transacted and whether any location is a residence. If any 866
location where the business is to be transacted is a residence, 867
the application shall be accompanied by a certified copy of a 868
zoning permit authorizing the use of the residence for commercial 869
purposes, or shall be accompanied by a written opinion or other 870
document issued by the county or political subdivision where the 871
residence is located certifying that the use of the residence to 872
transact business as a mortgage broker is not prohibited by the 873
county or political subdivision. The application also shall be 874
accompanied by a photograph of each location at which the business 875
will be transacted. 876

(2)(a) In the case of a sole proprietor, the name and address 877
of the sole proprietor; 878

(b) In the case of a partnership, the name and address of 879
each partner; 880

(c) In the case of a corporation, the name and address of 881
each shareholder owning five per cent or more of the corporation; 882

(d) In the case of any other entity, the name and address of 883
any person that owns five per cent or more of the entity that will 884
transact business as a mortgage broker. 885

(3) If the applicant is a partnership, corporation, limited 886
liability company, or any other business entity or association, 887
the applicant shall designate an employee or owner of the 888
applicant as the applicant's operations manager. While acting as 889
the operations manager, the employee or owner shall not be 890
employed by any other mortgage broker. 891

(4) Evidence that the sole proprietor or the person 892
designated on the application pursuant to division (A)(3) of this 893
section, as applicable, possesses at least three years of 894

experience in the mortgage and lending field, which experience may 895
include employment with or as a mortgage broker or with a 896
financial institution, mortgage lending institution, or other 897
lending institution, or possesses at least three years of other 898
experience related specifically to the business of mortgage loans 899
that the superintendent determines meets the requirements of 900
division (A)(4) of this section; 901

(5) On or after January 1, 2007, evidence that the sole 902
proprietor or the person designated on the application pursuant to 903
division (A)(3) of this section has successfully completed either 904
of the following: 905

(a) At least twenty-four hours of live classroom instruction 906
in a course or program of study approved by the superintendent 907
that consists of at least all of the following: 908

(i) Four hours of instruction concerning state and federal 909
mortgage lending laws, which shall include no less than two hours 910
on this chapter; 911

(ii) Four hours of instruction concerning the Ohio consumer 912
sales practices act, Chapter 1345. of the Revised Code, as it 913
applies to registrants and licensees; 914

(iii) Four hours of instruction concerning the loan 915
application process; 916

(iv) Two hours of instruction concerning the underwriting 917
process; 918

(v) Two hours of instruction concerning the secondary market 919
for mortgage loans; 920

(vi) Four hours of instruction concerning the loan closing 921
process; 922

(vii) Two hours of instruction covering basic mortgage 923
financing concepts and terms; 924

(viii) Two hours of instruction concerning the ethical responsibilities of a registrant, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code.

(b) Other post-secondary education related specifically to the business of mortgage loans that the superintendent determines meets the requirements of division (A)(5)(a) of this section.

Division (A)(5) of this section does not apply to any applicant who has an application on file with the division of financial institutions prior to January 1, 2007.

The evidence submitted by the applicant pursuant to division (A)(5) of this section may be in the form of transcripts or a statement indicating that the applicant has, and will maintain, transcripts at the applicant's place of business for a period of five years for inspection by the superintendent at the superintendent's request.

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

~~(6)~~(7) In the case of a foreign 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)~~(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 convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities;

~~(8)~~(9) A statement as to whether the applicant or, to the

best of the applicant's knowledge, any shareholder, member, 956
partner, operations manager, or employee of the applicant has been 957
subject to any adverse judgment for conversion, embezzlement, 958
misappropriation of funds, fraud, misfeasance or malfeasance, or 959
breach of fiduciary duty; 960

~~(9)~~(10) Evidence that the applicant's operations manager has 961
successfully completed the examination required under division (A) 962
of section 1322.051 of the Revised Code; 963

~~(10)~~(11) Any further information that the superintendent 964
requires. 965

(B) Upon the filing of the application and payment of the 966
application fee, the superintendent of financial institutions 967
shall investigate the applicant as set forth in division (B) of 968
this section. ~~The investigation shall include~~ 969

(1) The superintendent shall request the superintendent of 970
the bureau of criminal identification and investigation, or a 971
vendor approved by the bureau, to conduct a criminal records check 972
based on the applicant's fingerprints of the applicant and in 973
accordance with division (A)(11) of section 109.572 of the Revised 974
Code. Notwithstanding division (J) of section 121.08 of the 975
Revised Code, the superintendent of financial institutions shall 976
request that criminal record information from the federal bureau 977
of investigation be obtained as part of the criminal records 978
check. Any fee required under division (C)(3) of section 109.572 979
of the Revised Code shall be paid by the applicant. 980

(2) The superintendent shall conduct a civil records check. 981
~~If,~~ 982

(3) If, in order to issue a certificate of registration to an 983
applicant, additional investigation by the superintendent outside 984
this state is necessary, the superintendent may require the 985
applicant to advance sufficient funds to pay the actual expenses 986

of the investigation, if it appears that these expenses will 987
exceed three hundred fifty dollars. The superintendent shall 988
provide the applicant with an itemized statement of the actual 989
expenses that the applicant is required to pay. 990

(C) ~~All~~ The superintendent shall pay all funds advanced and 991
application and renewal fees and penalties ~~paid to the~~ 992
superintendent ~~under~~ receives pursuant to this section and section 993
1322.04 of the Revised Code ~~shall be paid by the superintendent to~~ 994
the treasurer of state to the credit of the consumer finance fund 995
created in section 1321.21 of the Revised Code. 996

(D) If an application for a certificate of registration does 997
not contain all of the information required under division (A) of 998
this section, and if that information is not submitted to the 999
superintendent within ninety days after the superintendent 1000
requests the information in writing, the superintendent may 1001
consider the application withdrawn. 1002

(E) A certificate of registration, ~~or~~ and the authority 1003
granted under ~~such a~~ that certificate, is not transferable or 1004
assignable and cannot be franchised by contract or any other 1005
means. 1006

(F) The registration requirements of this chapter apply to 1007
any person acting as a mortgage broker, and no person is exempt 1008
from the requirements of this chapter on the basis of prior work 1009
or employment as a mortgage broker. 1010

Sec. 1322.031. (A) An application for a license as a loan 1011
officer shall be in writing, under oath, and in the form 1012
prescribed by the superintendent of financial institutions. The 1013
application shall be accompanied by a nonrefundable application 1014
fee of one hundred dollars and shall provide all of the following: 1015

(1) The name and address of the applicant; 1016

(2) A statement as to whether the applicant has been 1017
convicted of or pleaded guilty to any criminal offense involving 1018
theft, receiving stolen property, embezzlement, forgery, fraud, 1019
passing bad checks, money laundering, or drug trafficking, or any 1020
criminal offense involving money or securities; 1021

(3) A statement as to whether the applicant has been subject 1022
to an adverse judgment for conversion, embezzlement, 1023
misappropriation of funds, fraud, misfeasance or malfeasance, or 1024
breach of fiduciary duty; 1025

(4) For loan officer applications submitted on or after 1026
January 1, 2007, proof, as determined by the superintendent, that 1027
the applicant has successfully completed at least twenty-four 1028
hours of live classroom instruction in a course or program of 1029
study approved by the superintendent that consists of at least all 1030
of the following: 1031

(a) Four hours of instruction concerning state and federal 1032
mortgage lending laws, which shall include no less than two hours 1033
on this chapter; 1034

(b) Four hours of instruction concerning the Ohio consumer 1035
sales practices act, Chapter 1345. of the Revised Code, as it 1036
applies to registrants and licensees; 1037

(c) Four hours of instruction concerning the loan application 1038
process; 1039

(d) Two hours of instruction concerning the underwriting 1040
process; 1041

(e) Two hours of instruction concerning the secondary market 1042
for mortgage loans; 1043

(f) Four hours of instruction concerning the loan closing 1044
process; 1045

(g) Two hours of instruction covering basic mortgage 1046

financing concepts and terms; 1047

(h) Two hours of instruction concerning the ethical 1048
responsibilities of a licensee, including with respect to 1049
confidentiality, consumer counseling, and the duties and standards 1050
of care created in section 1322.081 of the Revised Code. 1051

Division (A)(4) of this section does not apply to any 1052
applicant who has an application on file with the division of 1053
financial institutions prior to January 1, 2007. 1054

The proof submitted by the applicant pursuant to division 1055
(A)(4) of this section may be in the form of transcripts or a 1056
statement indicating that the applicant has, and will maintain, 1057
transcripts at the applicant's place of business for a period of 1058
five years for inspection by the superintendent at the 1059
superintendent's request. 1060

(5) Any further information that the superintendent requires. 1061

(B) Upon the filing of the application and payment of the 1062
application fee, the superintendent of financial institutions 1063
shall investigate the applicant as set forth in division (B) of 1064
this section. The investigation shall include 1065

(1) The superintendent shall request the superintendent of 1066
the bureau of criminal identification and investigation, or a 1067
vendor approved by the bureau, to conduct a criminal records check 1068
based on the applicant's fingerprints of the applicant and in 1069
accordance with division (A)(11) of section 109.572 of the Revised 1070
Code. Notwithstanding division (J) of section 121.08 of the 1071
Revised Code, the superintendent of financial institutions shall 1072
request that criminal record information from the federal bureau 1073
of investigation be obtained as part of the criminal records 1074
check. Any fee required under division (C)(3) of section 109.572 1075
of the Revised Code shall be paid by the applicant. 1076

(2) The superintendent shall conduct a civil records check. 1077

~~If~~ 1078

(3) ~~If~~, in order to issue a license to an applicant, 1079
additional investigation by the superintendent outside this state 1080
is necessary, the superintendent may require the applicant to 1081
advance sufficient funds to pay the actual expenses of the 1082
investigation, if it appears that these expenses will exceed one 1083
hundred dollars. The superintendent shall provide the applicant 1084
with an itemized statement of the actual expenses that the 1085
applicant is required to pay. 1086

(C) ~~All~~ The superintendent shall pay all funds advanced and 1087
application and renewal fees and penalties ~~paid to the~~ 1088
superintendent ~~under~~ receives pursuant to this section and section 1089
1322.041 of the Revised Code ~~shall be paid by the superintendent~~ 1090
to the treasurer of state to the credit of the consumer finance 1091
fund created in section 1321.21 of the Revised Code. 1092

(D) If an application for a license does not contain all of 1093
the information required under division (A) of this section, and 1094
if that information is not submitted to the superintendent within 1095
ninety days after the superintendent requests the information in 1096
writing, the superintendent may consider the application 1097
withdrawn. 1098

(E)(1) The business of a loan officer shall principally be 1099
transacted at an office of the employing mortgage broker, which 1100
office is registered in accordance with division (A) of section 1101
1322.02 of the Revised Code. Each original license shall be 1102
deposited with and maintained by the employing mortgage broker at 1103
the mortgage broker's main office. A copy of the license shall be 1104
maintained and displayed at the office where the loan officer 1105
principally transacts business. 1106

(2) If a loan officer's employment is terminated, the 1107
mortgage broker shall return the original license to the 1108

superintendent within five business days after the termination. 1109
The licensee may request the transfer of the license to another 1110
mortgage broker by submitting a relocation application, along with 1111
a fifteen dollar fee, to the superintendent or may request the 1112
superintendent in writing to hold the license in escrow for a 1113
period not to exceed one year. Any licensee whose license is held 1114
in escrow shall cease activity as a loan officer. 1115

A mortgage broker may employ a loan officer on a temporary 1116
basis pending the transfer of the loan officer's license to the 1117
mortgage broker, if the mortgage broker receives written 1118
confirmation from the superintendent that the loan officer is 1119
licensed under sections 1322.01 to 1322.12 of the Revised Code. 1120

(F) A license, or the authority granted under ~~such a~~ that 1121
license, is not assignable and cannot be franchised by contract or 1122
any other means. 1123

Sec. 1322.04. (A) Upon the conclusion of the investigation 1124
required under division (B) of section 1322.03 of the Revised 1125
Code, the superintendent of financial institutions shall issue a 1126
certificate of registration to the applicant if the superintendent 1127
finds that the following conditions are met: 1128

(1) Except as otherwise provided in division (A) of section 1129
1322.03 of the ~~Revised~~ Revised Code, the application is accompanied 1130
by the application fee. If a check or other draft instrument is 1131
returned to the superintendent for insufficient funds, the 1132
superintendent shall notify the registrant by certified mail, 1133
return receipt requested, that the certificate of registration 1134
issued in reliance on the check or other draft instrument will be 1135
canceled unless the registrant, within thirty days after receipt 1136
of the notice, submits the application fee and a 1137
one-hundred-dollar penalty to the superintendent. If the 1138
registrant does not submit the application fee and penalty within 1139

that time period, or if any check or other draft instrument used 1140
to pay the fee or penalty is returned to the superintendent for 1141
insufficient funds, the certificate of registration shall be 1142
canceled immediately without a hearing, and the registrant shall 1143
cease activity as a mortgage broker. 1144

(2) If the application is for a location that is a residence, 1145
that the applicant has obtained a valid zoning permit authorizing 1146
the use of the residence for commercial purposes, or has obtained 1147
a valid written opinion or other document issued by the county or 1148
political subdivision where the residence is located certifying 1149
that the use of the residence to transact business as a mortgage 1150
broker is not prohibited by the county or political subdivision. 1151
The application also is accompanied by a photograph of each 1152
location at which the mortgage broker's business will be 1153
transacted. 1154

(3) The sole proprietor or the person designated on the 1155
application pursuant to division (A)(3) of section 1322.03 of the 1156
Revised Code, as applicable, meets the experience requirements 1157
provided in division (A)(4) of section 1322.03 of the Revised Code 1158
and the education requirements set forth in division (A)(5) of 1159
section 1322.03 of the Revised Code. 1160

(4) The applicant maintains all licenses and registrations 1161
required by the secretary of state. 1162

(5) The applicant complies with the surety bond requirements 1163
of section 1322.05 of the Revised Code. 1164

(6) The applicant complies with sections 1322.01 to 1322.12 1165
of the Revised Code. 1166

(7) Neither the applicant nor any shareholder, member, 1167
partner, operations manager, or employee of the applicant has 1168
pleaded guilty to or been convicted of any criminal offense 1169
described in division (A)~~(7)~~(8) of section 1322.03 of the Revised 1170

Code, or any violation of an existing or former law of this state, 1171
any other state, or the United States that substantially is 1172
equivalent to a criminal offense described in that division. 1173
However, if the applicant or any of those other persons has 1174
pleaded guilty to or been convicted of any such ~~an~~ offense other 1175
than theft, the superintendent shall not consider the offense if 1176
the applicant has proven to the superintendent, by a preponderance 1177
of the evidence, that the applicant's or other person's activities 1178
and employment record since the conviction show that the applicant 1179
or other person is honest, truthful, and of good reputation, and 1180
there is no basis in fact for believing that the applicant or 1181
other person will commit such an offense again. 1182

(8) Neither the applicant nor any shareholder, member, 1183
partner, operations manager, or employee of the applicant has been 1184
subject to any adverse judgment for conversion, embezzlement, 1185
misappropriation of funds, fraud, misfeasance or malfeasance, or 1186
breach of fiduciary duty, or, if the applicant or any of those 1187
other persons has been subject to such a judgment, the applicant 1188
has proven to the superintendent, by a preponderance of the 1189
evidence, that the applicant's or other person's activities and 1190
employment record since the judgment show that the applicant or 1191
other person is honest, truthful, and of good reputation, and 1192
there is no basis in fact for believing that the applicant or 1193
other person will be subject to such a judgment again. 1194

(9) The applicant's operations manager successfully completed 1195
the examination required under division (A) of section 1322.051 of 1196
the Revised Code. 1197

(10) The applicant's financial responsibility, experience, 1198
character, and general fitness command the confidence of the 1199
public and warrant the belief that the business will be operated 1200
honestly and fairly in compliance with the purposes of sections 1201
1322.01 to 1322.12 of the Revised Code. 1202

For purposes of determining whether an applicant that is a
partnership, corporation, or other business entity or association
has met the conditions set forth in divisions (A)(7), (A)(8), and
(A)(10) of this section, the superintendent shall determine which
partners, shareholders, or persons named in the application
pursuant to division (A)(2) of section 1322.03 of the Revised Code
must meet the conditions set forth in 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 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; 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 1235
the registrant shall cease activity as a mortgage broker. 1236

(2) On and after January 1, 2003, the operations manager 1237
designated under division (A)(3) of section 1322.03 of the Revised 1238
Code has completed, during the immediately preceding calendar 1239
year, at least six hours of continuing education as required under 1240
section 1322.052 of the Revised Code. 1241

(3) The applicant meets the conditions set forth in divisions 1242
(A)(2) to (10) of this section. 1243

(4) The applicant's certificate of registration is not 1244
subject to an order of suspension or revocation by the 1245
superintendent. 1246

(C)(1) Subject to division (C)(2) of this section, if a 1247
renewal fee is received by the superintendent after the thirtieth 1248
day of April, the certificate of registration shall not be 1249
considered renewed, and the applicant shall cease activity as a 1250
mortgage broker and apply for a certificate of registration as a 1251
mortgage broker. 1252

(2) Division (C)(1) of this section shall not apply if the 1253
applicant, no later than the thirty-first day of May, submits the 1254
renewal fee and a one-hundred-dollar penalty to the 1255
superintendent. 1256

(D) If the person designated as the operations manager 1257
pursuant to division (A)(3) of section 1322.03 of the Revised Code 1258
is no longer the operations manager, the registrant shall do all 1259
of the following: 1260

(1) Designate another person as the operations manager; 1261

(2) Within ten days after the designation described in 1262
division (D)(1) of this section, notify the superintendent in 1263
writing of the designation; 1264

(3) Submit any additional information that the superintendent 1265
requires to establish that the newly designated operations manager 1266
complies with the experience requirements set forth in division 1267
(A)(4) of section 1322.03 of the Revised Code. 1268

Sec. 1322.041. (A) Upon the conclusion of the investigation 1269
required under division (B) of section 1322.031 of the Revised 1270
Code, the superintendent of financial institutions shall issue a 1271
loan officer license to the applicant if the superintendent finds 1272
that the following conditions are met: 1273

(1) The application is accompanied by the application fee. If 1274
a check or other draft instrument is returned to the 1275
superintendent for insufficient funds, the superintendent shall 1276
notify the licensee by certified mail, return receipt requested, 1277
that the license issued in reliance on the check or other draft 1278
instrument will be canceled unless the licensee, within thirty 1279
days after receipt of the notice, submits the application fee and 1280
a one-hundred-dollar penalty to the superintendent. If the 1281
licensee does not submit the application fee and penalty within 1282
that time period, or if any check or other draft instrument used 1283
to pay the fee or penalty is returned to the superintendent for 1284
insufficient funds, the license shall be canceled immediately 1285
without a hearing, and the licensee shall cease activity as a loan 1286
officer. 1287

(2) The applicant complies with sections 1322.01 to 1322.12 1288
of the Revised Code. 1289

(3) The applicant has not been convicted of or pleaded guilty 1290
to any criminal offense described in division (A)(2) of section 1291
1322.031 of the Revised Code, ~~or~~ and the applicant has not pleaded 1292
guilty to or been convicted of a violation of an existing or 1293
former law of this state, any other state, or the United States 1294
that substantially is equivalent to a criminal offense described 1295

in that division. However, if the applicant has been convicted of 1296
or pleaded guilty to any such an offense other than theft, the 1297
superintendent shall not consider the offense if the applicant has 1298
proven to the superintendent, by a preponderance of the evidence, 1299
that the applicant's activities and employment record since the 1300
conviction show that the applicant is honest, truthful, and of 1301
good reputation, and there is no basis in fact for believing that 1302
the applicant will commit such an offense again. 1303

(4) The applicant has not been subject to an adverse judgment 1304
for conversion, embezzlement, misappropriation of funds, fraud, 1305
mifeasance or malfeasance, or breach of fiduciary duty, or, if 1306
the applicant has been subject to such a judgment, the applicant 1307
has proven to the superintendent, by a preponderance of the 1308
evidence, that the applicant's activities and employment record 1309
since the judgment show that the applicant is honest, truthful, 1310
and of good reputation, and there is no basis in fact for 1311
believing that the applicant will be subject to such a judgment 1312
again. 1313

(5) The applicant successfully completed the examination 1314
required under division (B) of section 1322.051 of the Revised 1315
Code and the education requirements set forth in division (A)(4) 1316
of section 1322.031 of the Revised Code. 1317

(6) The applicant's character and general fitness command the 1318
confidence of the public and warrant the belief that the business 1319
will be operated honestly and fairly in compliance with the 1320
purposes of sections 1322.01 to 1322.12 of the Revised Code. 1321

(B) The license issued under division (A) of this section may 1322
be renewed annually on or before the thirtieth day of April if the 1323
superintendent finds that all of the following conditions are met: 1324

(1) The renewal application is accompanied by a nonrefundable 1325
renewal fee of one hundred dollars. If a check or other draft 1326

instrument is returned to the superintendent for insufficient 1327
funds, the superintendent shall notify the licensee by certified 1328
mail, return receipt requested, that the license renewed in 1329
reliance on the check or other draft instrument will be canceled 1330
unless the licensee, within thirty days after receipt of the 1331
notice, submits the renewal fee and a one-hundred-dollar penalty 1332
to the superintendent. If the licensee does not submit the renewal 1333
fee and penalty within that time period, or if any check or other 1334
draft instrument used to pay the fee or penalty is returned to the 1335
superintendent for insufficient funds, the license shall be 1336
canceled immediately without a hearing, and the licensee shall 1337
cease activity as a loan officer. 1338

(2) On and after January 1, 2003, the loan officer has 1339
completed, during the immediately preceding calendar year, at 1340
least six hours of continuing education as required under section 1341
1322.052 of the Revised Code. 1342

(3) The applicant meets the conditions set forth in divisions 1343
(A)(2) to ~~(5)~~(6) of this section. 1344

(4) The applicant's license is not subject to an order of 1345
suspension or revocation by the superintendent. 1346

(C)(1) Subject to division (C)(2) of this section, if a 1347
license renewal application or renewal fee is received by the 1348
superintendent after the thirtieth day of April, the license shall 1349
not be considered renewed, and the applicant shall cease activity 1350
as a loan officer. 1351

(2) Division (C)(1) of this section shall not apply if the 1352
applicant, no later than the thirty-first day of May, submits the 1353
renewal application and fee and a one-hundred-dollar penalty to 1354
the superintendent. 1355

Sec. 1322.051. (A) Each person designated under division 1356

(A)(3) of section 1322.03 of the Revised Code to act as operations 1357
manager for a mortgage broker business shall submit to an 1358
examination approved by the superintendent of financial 1359
institutions. 1360

(B) Each ~~licensee, within ninety days after the original~~ 1361
~~issuance of the~~ applicant for a loan officer license, shall 1362
~~successfully complete~~ submit to an examination approved by the 1363
superintendent. ~~Failure to comply with this division results in~~ 1364
~~the termination of the license by operation of law.~~ 1365

Sec. 1322.06. (A) As often as the superintendent of financial 1366
institutions considers it necessary, the superintendent may 1367
examine the registrant's records pertaining to business transacted 1368
pursuant to sections 1322.01 to 1322.12 of the Revised Code. 1369
1370

(B) A registrant shall maintain records pertaining to 1371
business transacted pursuant to sections 1322.01 to 1322.12 of the 1372
Revised Code, including copies of all mortgage loan origination 1373
disclosure statements prepared in accordance with section 1322.062 1374
of the Revised Code, for four years. No registrant shall fail to 1375
comply with this division. 1376

Sec. 1322.061. (A)(1) The following information is ~~privileged~~ 1377
~~and~~ confidential: 1378

(a) Examination information, and any information leading to 1379
or arising from an examination; 1380

(b) Investigation information, and any information arising 1381
from or leading to an investigation. 1382

(2) The information described in division (A)(1) of this 1383
section shall remain ~~privileged and~~ confidential for all purposes 1384
except when it is necessary for the superintendent of financial 1385
institutions to take official action regarding the affairs of a 1386

registrant or licensee, or in connection with criminal or civil 1387
proceedings to be initiated by a prosecuting attorney or the 1388
attorney general. This information may also be introduced into 1389
evidence or disclosed when and in the manner authorized by section 1390
1181.25 of the Revised Code. 1391

(B) All application information, except social security 1392
numbers, employer identification numbers, financial account 1393
numbers, the identity of the institution where financial accounts 1394
are maintained, personal financial information, fingerprint cards 1395
and the information contained on such cards, and criminal 1396
background information, is a public record as defined in section 1397
149.43 of the Revised Code. 1398

(C) This section does not prevent the division of financial 1399
institutions from releasing to or exchanging with other financial 1400
institution regulatory authorities information relating to 1401
registrants and licensees. For this purpose, a "financial 1402
institution regulatory authority" includes a regulator of a 1403
business activity in which a registrant or licensee is engaged, or 1404
has applied to engage in, to the extent that the regulator has 1405
jurisdiction over a registrant or licensee engaged in that 1406
business activity. A registrant or licensee is engaged in a 1407
business activity, and a regulator of that business activity has 1408
jurisdiction over the registrant or licensee, whether the 1409
registrant or licensee conducts the activity directly or a 1410
subsidiary or affiliate of the registrant or licensee conducts the 1411
activity. 1412

(D) This section does not prevent the division from releasing 1413
information relating to registrants and licensees to the attorney 1414
general ~~for purposes relating to the attorney general's~~ 1415
~~administration of Chapter 1345. of the Revised Code, to the~~ 1416
superintendent of real estate and professional licensing for 1417
purposes relating to the administration of Chapters 4735. and 1418

4763. of the Revised Code, to the superintendent of insurance for 1419
purposes relating to the administration of Chapter 3953. of the 1420
Revised Code, or to local law enforcement agencies and local 1421
prosecutors. Information the division releases ~~to the attorney~~ 1422
~~general~~ pursuant to this section remains ~~privileged and~~ 1423
~~confidential, and the attorney general may not disclose the~~ 1424
~~information or introduce the information into evidence unless the~~ 1425
~~superintendent authorizes the disclosure or introduction into~~ 1426
~~evidence in connection with the attorney general's administration~~ 1427
~~of Chapter 1345. of the Revised Code.~~ 1428

Sec. 1322.062. (A)(1) Within three business days after taking 1429
an application for a loan from a buyer, a registrant shall deliver 1430
to the buyer a mortgage loan origination disclosure statement that 1431
contains all of the following: 1432

(a) The name, address, and telephone number of the buyer; 1433

(b) The typewritten name of the loan officer and the number 1434
designated on the loan officer's license; 1435

(c) The street address, telephone number, and facsimile 1436
number of the registrant and the number designated on the 1437
registrant's certificate of registration; 1438

(d) The signature of the loan officer or registrant; 1439

(e) A statement indicating whether the buyer is to pay for 1440
the services of a bona fide third party if the registrant is 1441
unable to assist the buyer in obtaining a mortgage; 1442

(f) A statement that describes the method by which the fee to 1443
be paid by the buyer to the registrant will be calculated and a 1444
good faith estimate of the total amount of that fee; 1445

(g) A statement that the lender may pay compensation to the 1446
registrant; 1447

(h) A description of all the services the registrant has 1448

agreed to perform for the buyer; 1449

(i) A statement that the buyer has not entered into an 1450
exclusive agreement for brokerage services; 1451

(j) If the loan applied for will exceed ninety per cent of 1452
the value of the real property, a statement, printed in boldface 1453
type of the minimum size of sixteen points, as follows: "You are 1454
applying for a loan that is more than 90% of your home's value. It 1455
will be hard for you to refinance this loan. If you sell your 1456
home, you might owe more money on the loan than you get from the 1457
sale." 1458

(k) To acknowledge receipt, the signature of the buyer. 1459

(2) If the loan is a covered loan as defined in section 1460
1349.25 of the Revised Code, the registrant shall also deliver a 1461
copy of the mortgage loan origination disclosure statement to the 1462
lender. 1463

(B) If there is any change in the information provided under 1464
division (A)(1)~~(f)~~ ~~or (h)~~ of this section, the registrant shall 1465
provide the buyer with the revised mortgage loan origination 1466
disclosure statement and a written explanation of why the change 1467
occurred no later than ~~three days~~ twenty-four hours after the 1468
change occurs, or ~~the date~~ twenty-four hours before the loan is 1469
closed, whichever is earlier. 1470

(C) A registrant shall deliver to the buyer, immediately upon 1471
receipt, a copy of any nonproprietary or publicly available credit 1472
score and report obtained regarding the buyer by the registrant 1473
for the purpose of the mortgage loan application; 1474

If the loan officer or registrant uses an automated valuation 1475
model to determine an appraisal report, the registrant also shall 1476
include a copy of the automated valuation model report. 1477

(D) A registrant shall deliver to the buyer, at the same time 1478

that the registrant delivers the mortgage loan origination 1479
disclosure statement pursuant to division (A) of this section, a 1480
good faith estimate statement that discloses the amount of or 1481
range of charges for the specific settlement services the buyer is 1482
likely to incur in connection with the mortgage loan. The good 1483
faith estimate statement shall meet the requirements of the "Real 1484
Estate Settlement Procedures Act," 88 Stat. 1724 (1974). 12 1485
U.S.C.A. 2601 et seq., and shall include the following underlined 1486
notice in at least ten point type, new roman style: 1487

"Nature of Relationship: In connection with this residential 1488
mortgage loan, you, the borrower(s), has/have requested assistance 1489
from (company name) in arranging credit. We do not 1490
distribute all products in the marketplace and cannot guarantee 1491
the lowest rate. 1492

Termination: This agreement will continue until one of the 1493
following events occur: 1494

1. The loan closes. 1495
2. The request is denied. 1496
3. The borrower withdraws the request. 1497
4. The borrower decides to use another source for 1498
origination. 1499
5. The borrower is provided a revised good faith estimate 1500
statement. 1501

Notice to borrower(s): Signing this document does not obligate you 1502
to obtain a mortgage loan through this mortgage originator nor is 1503
this a loan commitment or an approval; nor is your interest rate 1504
locked at this time unless otherwise disclosed on a separate Rate 1505
Lock Disclosure Form. Do not sign this document until you have 1506
read and understood the information in it. You will receive a 1507
re-disclosure of any increase in interest rate or if the total sum 1508

of disclosed settlement/closing costs increases by 10% or more of 1509
the original estimate. Should any such increase occur; mandatory 1510
re-disclosure must occur prior to the settlement or close of 1511
escrow." 1512

(E) No registrant shall fail to comply with this section. 1513

Sec. 1322.063. (A) In addition to the disclosures required 1514
under section 1322.062 of the Revised Code, a registrant shall, 1515
not later than twenty-four hours before a loan is closed, deliver 1516
to the buyer a written disclosure that includes the following: 1517

(1) A statement indicating whether property taxes will be 1518
escrowed; 1519

(2) A description of what is covered by the regular monthly 1520
payment, including principal, interest, taxes, and insurance, as 1521
applicable. 1522

(B) No registrant shall fail to comply with this section. 1523

Sec. 1322.064. (A) No registrant or licensee shall fail to do 1524
either of the following: 1525

(1) Timely inform the buyer of any material change in the 1526
terms of the loan. For purposes of division (A)(1) of this 1527
section, "material change" means the following: 1528

(a) A change in the type of loan being offered, such as a 1529
fixed or variable rate loan or a loan with a balloon payment; 1530

(b) A change in the term of the loan, as reflected in the 1531
number of monthly payments due before a final payment is scheduled 1532
to be made; 1533

(c) A change in the interest rate of more than 0.15%; 1534

(d) A change in the regular monthly payment of principal and 1535
interest of more than five per cent; 1536

<u>(e) A change regarding the escrow of taxes or insurance;</u>	1537
<u>(f) A change regarding the payment of private mortgage</u>	1538
<u>insurance.</u>	1539
<u>(2) Timely inform the buyer if any fees payable by the buyer</u>	1540
<u>to the registrant or lender increase by more than ten per cent or</u>	1541
<u>one hundred dollars, whichever is greater.</u>	1542
<u>(B) The disclosures required by this section shall be deemed</u>	1543
<u>timely if the registrant provides the buyer with the revised</u>	1544
<u>information not later than twenty-four hours after the change</u>	1545
<u>occurs, or twenty-four hours before the loan is closed, whichever</u>	1546
<u>is earlier.</u>	1547
<u>(C) If an increase in the total amount of the fee to be paid</u>	1548
<u>by the buyer to the registrant is not disclosed in accordance with</u>	1549
<u>division (A)(2) of this section, the registrant shall refund to</u>	1550
<u>the buyer the amount by which the fee was increased. If the fee is</u>	1551
<u>financed into the loan, the registrant shall also refund to the</u>	1552
<u>buyer the interest that would accrue over the term of the loan on</u>	1553
<u>that excess amount.</u>	1554
 Sec. 1322.07. No mortgage broker, registrant, licensee, or	1555
applicant for a certificate of registration or license under	1556
sections 1322.01 to 1322.12 of the Revised Code shall do any of	1557
the following:	1558
 (A) Obtain a certificate of registration or license through	1559
any false or fraudulent representation of a material fact or any	1560
omission of a material fact required by state law, or make any	1561
substantial misrepresentation in any registration or license	1562
application;	1563
 (B) Make false or misleading statements of a material fact,	1564
omissions of statements required by state law, or false promises	1565
regarding a material fact, through advertising or other means, or	1566

engage in a continued course of misrepresentations; 1567

(C) Engage in conduct that constitutes improper, fraudulent, 1568
or dishonest dealings; 1569

(D) Fail to notify the division of financial institutions 1570
within thirty days after the registrant, licensee, or applicant, 1571
in a court of competent jurisdiction of this state or any other 1572
state, is convicted of or pleads guilty to any criminal offense 1573
involving theft, receiving stolen property, embezzlement, forgery, 1574
fraud, passing bad checks, money laundering, or drug trafficking, 1575
or any criminal offense involving money or securities; 1576

(E) Knowingly make, propose, or solicit fraudulent, false, or 1577
misleading statements on any mortgage document or on any document 1578
related to a mortgage, including a mortgage application, real 1579
estate appraisal, or real estate settlement or closing document. 1580
For purposes of this division, "fraudulent, false, or misleading 1581
statements" does not include mathematical errors, inadvertent 1582
transposition of numbers, typographical errors, or any other bona 1583
fide error. 1584

(F) Knowingly instruct, solicit, propose, or otherwise cause 1585
a buyer to sign in blank a mortgage related document; 1586

(G) Knowingly compensate, instruct, induce, coerce, or 1587
intimidate, or attempt to compensate, instruct, induce, coerce, or 1588
intimidate, a person licensed or certified under Chapter 4763. of 1589
the Revised Code for the purpose of corrupting or improperly 1590
influencing the independent judgment of the person with respect to 1591
the value of the dwelling offered as security for repayment of a 1592
mortgage loan; 1593

(H) Promise to refinance a loan in the future at a lower 1594
interest rate or with more favorable terms, unless the promise is 1595
set forth in writing and is initialed by the buyer. 1596

Sec. 1322.074. (A) As used in this section and section 1597
1322.075 of the Revised Code: 1598

(1) "Appraisal company" means a sole proprietorship, 1599
partnership, corporation, limited liability company, or any other 1600
business entity or association, that employs or retains the 1601
services of a person licensed or certified under Chapter 4763. of 1602
the Revised Code for purposes of performing residential real 1603
estate appraisals for mortgage loans. 1604

(2) "Immediate family" means a spouse residing in the 1605
person's household and any dependent child. 1606

(B) Except as otherwise provided in division (C) of this 1607
section, no registrant, or any member of the registrant's 1608
immediate family, shall own or control a majority interest in an 1609
appraisal company. 1610

(C) Division (B) of this section shall not apply to any 1611
registrant, or any member of the registrant's immediate family, 1612
who, on the effective date of this section, owns or controls a 1613
majority interest in an appraisal company. However, such ownership 1614
or control is subject to the following conditions: 1615

(1) The registrant and members of the registrant's immediate 1616
family shall not increase their interest in the company. 1617

(2) The interest is not transferable to a member of the 1618
registrant's immediate family. 1619

(3) If the registrant is convicted of or pleads guilty to a 1620
criminal violation of sections 1322.01 to 1322.12 of the Revised 1621
Code or any criminal offense described in division (A)(1)(b) of 1622
section 1322.10 of the Revised Code, the superintendent of 1623
financial institutions may, as an alternative to any of the 1624
actions authorized under section 1322.10 of the Revised Code, 1625
order the registrant or members of the registrant's immediate 1626

family to divest their interest in the company. 1627

Sec. 1322.075. (A) No registrant or licensee or person 1628
required to be registered or licensed under this chapter shall 1629
refer a buyer to any settlement service provider, including any 1630
title insurance company, without providing the buyer with written 1631
notice disclosing all of the following: 1632

(1) Any business relationship that exists between the 1633
registrant, licensee, or person required to be registered or 1634
licensed under this chapter, and the provider to which the buyer 1635
is being referred, and any financial benefit that the registrant, 1636
licensee, or person may be provided because of the relationship; 1637

(2) The percentage of ownership interest the registrant, 1638
licensee, or person required to be registered or licensed under 1639
this chapter has in the provider to which the buyer is being 1640
referred; 1641

(3) The estimated charge or range of charges for the 1642
settlement service listed; 1643

(4) The following statement, printed in boldface type of the 1644
minimum size of sixteen points: "There are frequently other 1645
settlement service providers available with similar services. You 1646
are free to shop around to determine that you are receiving the 1647
best services and the best rate for these services." 1648

(B) No registrant or licensee shall refer a buyer to an 1649
appraisal company, if the registrant or licensee, or a member of 1650
the registrant's or licensee's immediate family, has either of the 1651
following financial relationships with the appraisal company: 1652

(1) An ownership or investment interest in the company, 1653
whether through debt, equity, or other means; 1654

(2) Any compensation arrangement involving any remuneration, 1655
directly or indirectly, overtly or covertly, in cash or in kind. 1656

(C) No registrant or licensee shall knowingly enter into an 1657
arrangement or scheme, including a cross-referral arrangement, 1658
that has a principal purpose of assuring referrals by a registrant 1659
or licensee to a particular appraisal company that would violate 1660
division (B) of this section. 1661

(D) The registrant, licensee, or person required to be 1662
registered or licensed under this chapter shall retain proof that 1663
the buyer received the written disclosures required by division 1664
(A) of this section for four years. 1665

Sec. 1322.081. (A) A registrant, licensee, and any person 1666
required to be registered or licensed under this chapter, in 1667
addition to duties imposed by other statutes or common law, shall 1668
do all of the following: 1669

(1) Safeguard and account for any money handled for the 1670
borrower; 1671

(2) Follow reasonable and lawful instructions from the 1672
borrower; 1673

(3) Act with reasonable skill, care, and diligence; 1674

(4) Act in good faith and with fair dealing in any 1675
transaction, practice, or course of business in connection with 1676
the brokering or originating of any mortgage loan; 1677

(5) Make reasonable efforts to secure a mortgage loan, from 1678
lenders with whom the registrant, licensee, or person regularly 1679
does business, with rates, charges, and repayment terms that are 1680
advantageous to the borrower. 1681

(B) Division (A) of this section shall not apply to wholesale 1682
lenders. However, wholesale lenders are subject to all other 1683
requirements applicable to mortgage brokers and nonbank mortgage 1684
lenders. For purposes of this division, "wholesale lender" means a 1685
company that has been issued a mortgage broker certificate of 1686

registration and that enters into transactions with buyers 1687
exclusively through unaffiliated third-party mortgage brokers. 1688

(C) The duties and standards of care created in this section 1689
cannot be waived or modified. 1690

(D)(1) A buyer injured by a violation of this section may 1691
bring an action for recovery of damages. 1692

(2) Damages awarded under division (D)(1) of this section 1693
shall not be less than all compensation paid directly or 1694
indirectly to a mortgage broker from any source, plus reasonable 1695
attorney's fees and court costs. 1696

(3) The buyer may be awarded punitive damages. 1697

(E) A buyer injured by a violation of this section is 1698
precluded from recovering any damages, plus reasonable attorney's 1699
fees and costs, if the buyer has also recovered any damages in a 1700
cause of action initiated under section 1322.11 of the Revised 1701
Code and the recovery of damages for a violation of this section 1702
is based on the same acts or circumstances as the basis for 1703
recovery of damages in section 1322.11 of the Revised Code. 1704

Sec. 1322.10. (A) After notice and opportunity for a hearing 1705
conducted in accordance with Chapter 119. of the Revised Code, the 1706
superintendent of financial institutions may do the following: 1707

(1) Suspend, revoke, or refuse to issue or renew a 1708
certificate of registration or license if the superintendent finds 1709
either of the following: 1710

(a) A violation of or failure to comply with any provision of 1711
sections 1322.01 to 1322.12 of the Revised Code or the rules 1712
adopted under those sections or any other law applicable to the 1713
business conducted under a certificate of registration; 1714

(b) A conviction of or guilty plea to any criminal offense 1715
involving theft, receiving stolen property, embezzlement, forgery, 1716

fraud, passing bad checks, money laundering, or drug trafficking, 1717
or any criminal offense involving money or securities. 1718

(2) Impose a fine of not more than one thousand dollars, for 1719
each day a violation of a law or rule is committed, repeated, or 1720
continued. If the registrant or licensee engages in a pattern of 1721
repeated violations of a law or rule, the superintendent may 1722
impose a fine of not more than two thousand dollars for each day 1723
the violation is committed, repeated, or continued. All fines 1724
collected pursuant to this division shall be paid to the treasurer 1725
of state to the credit of the consumer finance fund created in 1726
section 1321.21 of the Revised Code. In determining the amount of 1727
a fine to be imposed pursuant to this division, the superintendent 1728
shall consider all of the following: 1729

(a) The seriousness of the violation; 1730

(b) The registrant's or licensee's good faith efforts to 1731
prevent the violation; 1732

(c) The registrant's or licensee's history regarding 1733
violations and compliance with division orders; 1734

(d) The registrant's or licensee's financial resources; 1735

(e) Any other matters the superintendent considers 1736
appropriate in enforcing sections 1322.01 to 1322.12 of the 1737
Revised Code. 1738

(B) The superintendent may investigate alleged violations of 1739
sections 1322.01 to 1322.12 of the Revised Code or the rules 1740
adopted under those sections or complaints concerning any such 1741
violation. The superintendent may make application to the court of 1742
common pleas for an order enjoining any such violation, and, upon 1743
a showing by the superintendent that a person has committed or is 1744
about to commit such a violation, the court shall grant an 1745
injunction, restraining order, or other appropriate relief. 1746

(C) In conducting any investigation pursuant to this section, 1747
the superintendent may compel, by subpoena, witnesses to testify 1748
in relation to any matter over which the superintendent has 1749
jurisdiction and may require the production of any book, record, 1750
or other document pertaining to that matter. If a person fails to 1751
file any statement or report, obey any subpoena, give testimony, 1752
produce any book, record, or other document as required by a 1753
subpoena, or permit photocopying of any book, record, or other 1754
document subpoenaed, the court of common pleas of any county in 1755
this state, upon application made to it by the superintendent, 1756
shall compel obedience by attachment proceedings for contempt, as 1757
in the case of disobedience of the requirements of a subpoena 1758
issued from the court or a refusal to testify therein. 1759

(D) If the superintendent determines that a person is engaged 1760
in or is believed to be engaged in activities that may constitute 1761
a violation of sections 1322.01 to 1322.12 of the Revised Code, 1762
the superintendent, after notice and a hearing conducted in 1763
accordance with Chapter 119. of the Revised Code, may issue a 1764
cease and desist order. Such an order shall be enforceable in the 1765
court of common pleas. 1766

(E) If the superintendent revokes the certificate of 1767
registration or license of a registrant or licensee who is 1768
convicted of or pleads guilty to a criminal violation of any 1769
provision of sections 1322.01 to 1322.12 of the Revised Code or 1770
any criminal offense described in division (A)(1)(b) of this 1771
section, the revocation shall be permanent. 1772

(F)(1) To protect the public interest, the superintendent 1773
may, without a prior hearing, do any of the following: 1774

(a) Suspend the certificate of registration or license of a 1775
registrant or licensee who is convicted of or pleads guilty to a 1776
criminal violation of any provision of sections 1322.01 to 1322.12 1777
of the Revised Code or any criminal offense described in division 1778

(A)(1)(b) of this section; 1779

(b) Suspend the certificate of registration of a registrant 1780
who violates division (F) of section 1322.05 of the Revised Code; 1781

(c) Suspend the certificate of registration or license of a 1782
registrant or licensee who fails to comply with a request made by 1783
the superintendent under section 1322.03 or 1322.031 of the 1784
Revised Code to inspect qualifying education transcripts located 1785
at the registrant's or licensee's place of business. 1786

(2) The superintendent shall, without a prior hearing, 1787
suspend the certificate of registration of a registrant whose 1788
operations manager has failed to fulfill the continuing education 1789
requirements of section 1322.052 of the Revised Code and suspend 1790
the license of a licensee who has failed to fulfill those 1791
continuing education requirements. The suspension shall continue 1792
until such time as the required continuing education is completed 1793
and a fine of five hundred dollars is paid to the treasurer of 1794
state to the credit of the consumer finance fund. 1795

(3) The superintendent may, in accordance with Chapter 119. 1796
of the Revised Code, subsequently revoke any registration or 1797
license suspended under division (F)(1) of this section. 1798

(4) The superintendent shall, in accordance with Chapter 119. 1799
of the Revised Code, adopt rules establishing the maximum amount 1800
of time a suspension under division (F) of this section may 1801
continue before a hearing is conducted. 1802

Sec. 1322.11. (A)(1) A buyer injured by a violation of 1803
section 1322.02, 1322.062, 1322.063, 1322.064, 1322.07, 1322.071, 1804
1322.08, or 1322.09 of the Revised Code may bring an action for 1805
recovery of damages. 1806

(2) Damages awarded under division (A)(1) of this section 1807
shall not be less than ~~the amount paid by the buyer to the~~ 1808

~~mortgage broker~~ all compensation paid directly and indirectly to a 1809
mortgage broker from any source, plus reasonable attorney's fees 1810
and court costs. 1811

(3) The buyer may be awarded punitive damages. 1812

(B)(1) The superintendent of financial institutions, ~~the~~ 1813
~~attorney general,~~ or a buyer may directly bring an action to 1814
enjoin a violation of sections 1322.01 to 1322.12 of the Revised 1815
Code. The attorney general may directly bring an action to enjoin 1816
a violation of sections 1322.01 to 1322.12 of the Revised Code 1817
with the same rights, privileges, and powers as those described in 1818
section 1345.06 of the Revised Code. The prosecuting attorney of 1819
the county in which the action may be brought may bring an action 1820
to enjoin a violation of sections 1322.01 to 1322.12 of the 1821
Revised Code only if the prosecuting attorney first presents any 1822
evidence of the violation to the attorney general and, within a 1823
reasonable period of time, the attorney general has not agreed to 1824
bring the action. 1825

(2) The superintendent may initiate criminal proceedings 1826
under sections 1322.01 to 1322.12 of the Revised Code by 1827
presenting any evidence of criminal violation to the prosecuting 1828
attorney of the county in which the offense may be prosecuted. If 1829
the prosecuting attorney does not prosecute the violations, or at 1830
the request of the prosecuting attorney, the superintendent shall 1831
present any evidence of criminal violations to the attorney 1832
general, who may proceed in the prosecution with all the rights, 1833
privileges, and powers conferred by law on prosecuting attorneys, 1834
including the power to appear before grand juries and to 1835
interrogate witnesses before such grand juries. These powers of 1836
the attorney general shall be in addition to any other applicable 1837
powers of the attorney general. 1838

(3) The prosecuting attorney of the county in which an 1839
alleged offense may be prosecuted may initiate criminal 1840

proceedings under sections 1322.01 to 1322.12 of the Revised Code. 1841

(4) In order to initiate criminal proceedings under sections 1842
1322.01 to 1322.12 of the Revised Code, the attorney general shall 1843
first present any evidence of criminal violations to the 1844
prosecuting attorney of the county in which the alleged offense 1845
may be prosecuted. If, within a reasonable period of time, the 1846
prosecuting attorney has not agreed to prosecute the violations, 1847
the attorney general may proceed in the prosecution with all the 1848
rights, privileges, and powers described in division (B)(2) of 1849
this section. 1850

(5) When a judgment under this section becomes final, the 1851
clerk of court shall mail a copy of the judgment, including 1852
supporting opinions, to the superintendent. 1853

(C) The remedies provided by this section are in addition to 1854
any other remedy provided by law. 1855

(D) In any proceeding or action brought under sections 1856
1322.01 to 1322.12 of the Revised Code, the burden of proving an 1857
exemption under those sections is on the person claiming the 1858
benefit of the exemption. 1859

(E) No person shall be deemed to violate sections 1322.01 to 1860
1322.12 of the Revised Code with respect to any act taken or 1861
omission made in reliance on a written notice, written 1862
interpretation, or written report from the superintendent, unless 1863
there is a subsequent amendment to those sections, or rules 1864
promulgated thereunder, that affects the superintendent's notice, 1865
interpretation, or report. 1866

(F) Upon disbursement of mortgage loan proceeds to or on 1867
behalf of the buyer, the registrant that assisted the buyer to 1868
obtain the mortgage loan is deemed to have completed the 1869
performance of the registrant's services for the buyer and owes no 1870
additional duties or obligations to the buyer with respect to the 1871

mortgage loan. However, nothing in this division shall be 1872
construed to limit or preclude the civil or criminal liability of 1873
a registrant for failing to comply with sections 1322.01 to 1874
1322.12 of the Revised Code or any rule adopted under those 1875
sections, for failing to comply with any provision of or duty 1876
arising under an agreement with a buyer or lender under sections 1877
1322.01 to 1322.12 of the Revised Code, or for violating any other 1878
provision of state or federal law. 1879

(G) A buyer injured by a violation of any of the sections 1880
specified in division (A)(1) of this section is precluded from 1881
recovering any damages, plus reasonable attorney's fees and costs, 1882
if the buyer has also recovered any damages in a cause of action 1883
initiated under section 1322.081 of the Revised Code and the 1884
recovery of damages for a violation of any of the sections 1885
specified in division (A)(1) of this section is based on the same 1886
acts or circumstances as the basis for recovery of damages in 1887
section 1322.081 of the Revised Code. 1888

Sec. 1322.99. (A) Whoever violates division (A)(1) or (2) of 1889
section 1322.02, division (E) ~~or~~ (F), or (G) of section 1322.07, 1890
division (B)(1) or (2) of section 1322.071, or section 1322.08 of 1891
the Revised Code is guilty of a felony of the fifth degree. 1892

(B) Whoever violates division (B)(3) of section 1322.071 of 1893
the Revised Code is guilty of a felony of the fourth degree. 1894

(C) Whoever violates division (B) of section 1322.02 of the 1895
Revised Code is guilty of a misdemeanor of the first degree. 1896

Sec. 1343.011. (A) As used in this section: 1897

(1) "Discount points" means any charges, whether or not 1898
actually denominated as "discount points," that are paid by the 1899
seller or the buyer of residential real property to a residential 1900
mortgage lender or that are deducted and retained by a residential 1901

mortgage lender from the proceeds of the residential mortgage. 1902
"Discount points" does not include the costs associated with 1903
settlement services as defined in the "Real Estate Settlement 1904
Procedures Act of 1974," 88 Stat. 1724, 12 U.S.C. 2601, amendments 1905
thereto, reenactments thereof, enactments parallel thereto, or in 1906
substitution therefor, or regulations issued thereunder. 1907

(2) "Residential mortgage" means an obligation to pay a sum 1908
of money evidenced by a note and secured by a lien upon real 1909
property located within this state containing two or fewer 1910
residential units or on which two or fewer residential units are 1911
to be constructed and includes such an obligation on a residential 1912
condominium or cooperative unit. 1913

(3) "Residential mortgage lender" means any person, bank, or 1914
savings and loan association that lends money or extends or grants 1915
credit and obtains a residential mortgage to assure payment of the 1916
debt. The term also includes the holder at any time of a 1917
residential mortgage obligation. 1918

(B) Except residential mortgage loans described in division 1919
(B)(3) of section 1343.01 of the Revised Code, no residential 1920
mortgage lender shall receive either directly or indirectly from a 1921
seller or buyer of real estate any discount points in excess of 1922
two per cent of the original principal amount of the residential 1923
mortgage. This division is not a limitation on discount points or 1924
other charges for purposes of section 501(b)(4) of the "Depository 1925
Institutions Deregulation and Monetary Control Act of 1980," 94 1926
Stat. 161, 12 U.S.C.A. 1735f-7a. 1927

(C) ~~Residential (1) Except as provided in division (C)(2) of~~ 1928
~~this section, residential~~ mortgage obligations ~~contracted for on~~ 1929
~~or after November 4, 1975,~~ may be prepaid or refinanced without 1930
penalty at any time after five years from the execution date of 1931
the mortgage. Prior to such time a prepayment or refinancing 1932
penalty may be provided not in excess of one per cent of the 1933

original principal amount of the residential mortgage. 1934

(2)(a) No penalty may be charged for the prepayment or 1935
refinancing of a residential mortgage obligation of less than 1936
seventy-five thousand dollars that is made or arranged by a 1937
mortgage broker, loan officer, or nonbank mortgage lender, as 1938
those terms are defined in section 1345.01 of the Revised Code, 1939
and that is secured by a mortgage on a borrower's real estate that 1940
is a first lien on the real estate. 1941

(b) The amount specified in division (C)(2)(a) of this 1942
section shall be adjusted annually on the first day of January by 1943
the annual percentage change in the consumer price index for all 1944
urban consumers, midwest region, all items, as determined by the 1945
bureau of labor statistics of the United States department of 1946
labor or, if that index is no longer published, a generally 1947
available comparable index, as reported on the first day of June 1948
of the year preceding the adjustment. The department of commerce 1949
shall publish the adjusted amounts on its official web site. 1950

Sec. 1345.01. As used in sections 1345.01 to 1345.13 of the 1951
Revised Code: 1952

(A) "Consumer transaction" means a sale, lease, assignment, 1953
award by chance, or other transfer of an item of goods, a service, 1954
a franchise, or an intangible, to an individual for purposes that 1955
are primarily personal, family, or household, or solicitation to 1956
supply any of these things. "Consumer transaction" does not 1957
include transactions between persons, defined in sections 4905.03 1958
and 5725.01 of the Revised Code, and their customers, except for 1959
transactions in connection with residential mortgages between loan 1960
officers, mortgage brokers, or nonbank mortgage lenders and their 1961
customers; transactions between certified public accountants or 1962
public accountants and their clients; transactions between 1963
attorneys, physicians, or dentists and their clients or patients; 1964

and transactions between veterinarians and their patients that 1965
pertain to medical treatment but not ancillary services. 1966

(B) "Person" includes an individual, corporation, government, 1967
governmental subdivision or agency, business trust, estate, trust, 1968
partnership, association, cooperative, or other legal entity. 1969

(C) "Supplier" means a seller, lessor, assignor, franchisor, 1970
or other person engaged in the business of effecting or soliciting 1971
consumer transactions, whether or not the person deals directly 1972
with the consumer. If the consumer transaction is in connection 1973
with a residential mortgage, "supplier" does not include an 1974
assignee or purchaser of the loan for value, except as otherwise 1975
provided in section 1345.091 of the Revised Code. For purposes of 1976
this division, in a consumer transaction in connection with a 1977
residential mortgage, "seller" means a loan officer, mortgage 1978
broker, or nonbank mortgage lender. 1979

(D) "Consumer" means a person who engages in a consumer 1980
transaction with a supplier. 1981

(E) "Knowledge" means actual awareness, but such actual 1982
awareness may be inferred where objective manifestations indicate 1983
that the individual involved acted with such awareness. 1984

(F) "Natural gas service" means the sale of natural gas, 1985
exclusive of any distribution or ancillary service. 1986

(G) "Public telecommunications service" means the 1987
transmission by electromagnetic or other means, other than by a 1988
telephone company as defined in section 4927.01 of the Revised 1989
Code, of signs, signals, writings, images, sounds, messages, or 1990
data originating in this state regardless of actual call routing. 1991
"Public telecommunications service" excludes a system, including 1992
its construction, maintenance, or operation, for the provision of 1993
telecommunications service, or any portion of such service, by any 1994
entity for the sole and exclusive use of that entity, its parent, 1995

a subsidiary, or an affiliated entity, and not for resale, 1996
directly or indirectly; the provision of terminal equipment used 1997
to originate telecommunications service; broadcast transmission by 1998
radio, television, or satellite broadcast stations regulated by 1999
the federal government; or cable television service. 2000

(H) "Loan officer" has the same meaning as in section 1322.01 2001
of the Revised Code, except that it does not include an employee 2002
of a bank, savings bank, savings and loan association, credit 2003
union, or credit union service organization organized under the 2004
laws of this state, another state, or the United States; an 2005
employee of a subsidiary of such a bank, savings bank, savings and 2006
loan association, or credit union; or an employee of an affiliate 2007
that (1) controls, is controlled by, or is under common control 2008
with, such a bank, savings bank, savings and loan association, or 2009
credit union and (2) is subject to examination, supervision, and 2010
regulation, including with respect to the affiliate's compliance 2011
with applicable consumer protection requirements, by the board of 2012
governors of the federal reserve system, the comptroller of the 2013
currency, the office of thrift supervision, the federal deposit 2014
insurance corporation, or the national credit union 2015
administration. 2016

(I) "Residential mortgage" or "mortgage" means an obligation 2017
to pay a sum of money evidenced by a note and secured by a lien 2018
upon real property located within this state containing two or 2019
fewer residential units or on which two or fewer residential units 2020
are to be constructed and includes such an obligation on a 2021
residential condominium or cooperative unit. 2022

(J) "Mortgage broker" has the same meaning as in section 2023
1322.01 of the Revised Code, except that it does not include a 2024
bank, savings bank, savings and loan association, credit union, or 2025
credit union service organization organized under the laws of this 2026
state, another state, or the United States; a subsidiary of such a 2027

bank, savings bank, savings and loan association, or credit union; 2028
an affiliate that (1) controls, is controlled by, or is under 2029
common control with, such a bank, savings bank, savings and loan 2030
association, or credit union and (2) is subject to examination, 2031
supervision, and regulation, including with respect to the 2032
affiliate's compliance with applicable consumer protection 2033
requirements, by the board of governors of the federal reserve 2034
system, the comptroller of the currency, the office of thrift 2035
supervision, the federal deposit insurance corporation, or the 2036
national credit union administration; or an employee of any such 2037
entity. 2038

(K) "Nonbank mortgage lender" means any person that engages 2039
in a consumer transaction in connection with a residential 2040
mortgage, except for a bank, savings bank, savings and loan 2041
association, credit union, or credit union service organization 2042
organized under the laws of this state, another state, or the 2043
United States; a subsidiary of such a bank, savings bank, savings 2044
and loan association, or credit union; or an affiliate that (1) 2045
controls, is controlled by, or is under common control with, such 2046
a bank, savings bank, savings and loan association, or credit 2047
union and (2) is subject to examination, supervision, and 2048
regulation, including with respect to the affiliate's compliance 2049
with applicable consumer protection requirements, by the board of 2050
governors of the federal reserve system, the comptroller of the 2051
currency, the office of thrift supervision, the federal deposit 2052
insurance corporation, or the national credit union 2053
administration. 2054

(L) For purposes of divisions (H), (J), and (K) of this 2055
section: 2056

(1) "Control" of another entity means ownership, control, or 2057
power to vote twenty-five per cent or more of the outstanding 2058
shares of any class of voting securities of the other entity, 2059

directly or indirectly or acting through one or more other 2060
persons. 2061

(2) "Credit union service organization" means a CUSO as 2062
defined in 12 C.F.R. 702.2. 2063

Sec. 1345.02. (A) No supplier shall commit an unfair or 2064
deceptive act or practice in connection with a consumer 2065
transaction. Such an unfair or deceptive act or practice by a 2066
supplier violates this section whether it occurs before, during, 2067
or after the transaction. 2068

(B) Without limiting the scope of division (A) of this 2069
section, the act or practice of a supplier in representing any of 2070
the following is deceptive: 2071

(1) That the subject of a consumer transaction has 2072
sponsorship, approval, performance characteristics, accessories, 2073
uses, or benefits that it does not have; 2074

(2) That the subject of a consumer transaction is of a 2075
particular standard, quality, grade, style, prescription, or 2076
model, if it is not; 2077

(3) That the subject of a consumer transaction is new, or 2078
unused, if it is not; 2079

(4) That the subject of a consumer transaction is available 2080
to the consumer for a reason that does not exist; 2081

(5) That the subject of a consumer transaction has been 2082
supplied in accordance with a previous representation, if it has 2083
not, except that the act of a supplier in furnishing similar 2084
merchandise of equal or greater value as a good faith substitute 2085
does not violate this section; 2086

(6) That the subject of a consumer transaction will be 2087
supplied in greater quantity than the supplier intends; 2088

(7) That replacement or repair is needed, if it is not; 2089

(8) That a specific price advantage exists, if it does not; 2090

(9) That the supplier has a sponsorship, approval, or 2091
affiliation that the supplier does not have; 2092

(10) That a consumer transaction involves or does not involve 2093
a warranty, a disclaimer of warranties or other rights, remedies, 2094
or obligations if the representation is false. 2095

(C) In construing division (A) of this section, the court 2096
shall give due consideration and great weight to federal trade 2097
commission orders, trade regulation rules and guides, and the 2098
federal courts' interpretations of subsection 45 (a)(1) of the 2099
"Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 2100
41, as amended. 2101

(D) No supplier shall offer to a consumer or represent that a 2102
consumer will receive a rebate, discount, or other benefit as an 2103
inducement for entering into a consumer transaction in return for 2104
giving the supplier the names of prospective consumers, or 2105
otherwise helping the supplier to enter into other consumer 2106
transactions, if earning the benefit is contingent upon an event 2107
occurring after the consumer enters into the transaction. 2108

(E)(1) No supplier, in connection with a consumer transaction 2109
involving natural gas service or public telecommunications service 2110
to a consumer in this state, shall request or submit, or cause to 2111
be requested or submitted, a change in the consumer's provider of 2112
natural gas service or public telecommunications service, without 2113
first obtaining, or causing to be obtained, the verified consent 2114
of the consumer. For the purpose of this division and with respect 2115
to public telecommunications service only, the procedures 2116
necessary for verifying the consent of a consumer shall be those 2117
prescribed by rule by the public utilities commission for public 2118
telecommunications service under division (D) of section 4905.72 2119

of the Revised Code. Also, for the purpose of this division, the
act, omission, or failure of any officer, agent, or other
individual, acting for or employed by another person, while acting
within the scope of that authority or employment, is the act or
failure of that other person.

(2) Consistent with the exclusion, under 47 C.F.R.
64.1100(a)(3), of commercial mobile radio service providers from
the verification requirements adopted in 47 C.F.R. 64.1100,
64.1150, 64.1160, 64.1170, 64.1180, and 64.1190 by the federal
communications commission, division (E)(1) of this section does
not apply to a provider of commercial mobile radio service insofar
as such provider is engaged in the provision of commercial mobile
radio service. However, when that exclusion no longer is in
effect, division (E)(1) of this section shall apply to such a
provider.

(3) The attorney general may initiate criminal proceedings
for a prosecution under division (C) of section 1345.99 of the
Revised Code by presenting evidence of criminal violations to the
prosecuting attorney of any 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
attorney general 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 grand juries.

(F) Concerning a consumer transaction in connection with a
residential mortgage, and without limiting the scope of division
(A) or (B) of this section, the act of a supplier in doing either
of the following is deceptive:

(1) Knowingly failing to provide disclosures required under
state and federal law;

(2) Knowingly providing a disclosure that includes a material 2151
misrepresentation. 2152

Sec. 1345.03. (A) No supplier shall commit an unconscionable 2153
act or practice in connection with a consumer transaction. Such an 2154
unconscionable act or practice by a supplier violates this section 2155
whether it occurs before, during, or after the transaction. 2156

(B) In determining whether an act or practice is 2157
unconscionable, the following circumstances shall be taken into 2158
consideration: 2159

(1) Whether the supplier has knowingly taken advantage of the 2160
inability of the consumer reasonably to protect ~~his~~ the consumer's 2161
interests because of ~~his~~ the consumer's physical or mental 2162
infirmities, ignorance, illiteracy, or inability to understand the 2163
language of an agreement; 2164

(2) Whether the supplier knew at the time the consumer 2165
transaction was entered into that the price was substantially in 2166
excess of the price at which similar property or services were 2167
readily obtainable in similar consumer transactions by like 2168
consumers; 2169

(3) Whether the supplier knew at the time the consumer 2170
transaction was entered into of the inability of the consumer to 2171
receive a substantial benefit from the subject of the consumer 2172
transaction; 2173

(4) Whether the supplier knew at the time the consumer 2174
transaction was entered into that there was no reasonable 2175
probability of payment of the obligation in full by the consumer; 2176

(5) Whether the supplier required the consumer to enter into 2177
a consumer transaction on terms the supplier knew were 2178
substantially one-sided in favor of the supplier; 2179

(6) Whether the supplier knowingly made a misleading 2180

statement of opinion on which the consumer was likely to rely to 2181
~~his~~ the consumer's detriment; 2182

(7) Whether the supplier has, without justification, refused 2183
to make a refund in cash or by check for a returned item that was 2184
purchased with cash or by check, unless the supplier had 2185
conspicuously posted in the establishment at the time of the sale 2186
a sign stating the supplier's refund policy. 2187

(C) This section does not apply to a consumer transaction in 2188
connection with a residential mortgage. 2189

Sec. 1345.031. (A) No supplier shall commit an unconscionable 2190
act or practice concerning a consumer transaction in connection 2191
with a residential mortgage. Such an unconscionable act or 2192
practice by a supplier violates this section whether it occurs 2193
before, during, or after the transaction. 2194

(B) For purposes of division (A) of this section, the 2195
following acts or practices of a supplier in connection with such 2196
a transaction are unconscionable: 2197

(1) Arranging for or making a mortgage loan that provides for 2198
an interest rate applicable after default that is higher than the 2199
interest rate that applies before default, excluding rates of 2200
interest for judgments applicable to the mortgage loan under 2201
section 1343.02 or 1343.03 of the Revised Code and also excluding 2202
interest rate changes in a variable rate loan transaction 2203
otherwise consistent with the provisions of the loan documents; 2204

(2) Engaging in a pattern or practice of providing consumer 2205
transactions to consumers based predominantly on the supplier's 2206
realization of the foreclosure or liquidation value of the 2207
consumer's collateral without regard to the consumer's ability to 2208
repay the loan in accordance with its terms, provided that the 2209
supplier may use any reasonable method to determine a borrower's 2210

ability to repay; 2211

(3) Making a consumer transaction that permits the creditor 2212
to demand repayment of the outstanding balance of a mortgage loan, 2213
in advance of the original maturity date unless the creditor does 2214
so in good faith due to the consumer's failure to abide by the 2215
material terms of the loan. 2216

(4) Knowingly replacing, refinancing, or consolidating a zero 2217
interest rate or other low-rate mortgage loan made by a 2218
governmental or nonprofit lender with another loan unless the 2219
current holder of the loan consents in writing to the refinancing 2220
and the consumer presents written certification from a third- 2221
party nonprofit organization counselor approved by the United 2222
States department of housing and urban development or the 2223
superintendent of financial institutions that the consumer 2224
received counseling on the advisability of the loan transaction. 2225
For purposes of division (B)(4) of this section, a "low-rate 2226
mortgage loan" means a mortgage loan that carries a current 2227
interest rate two percentage points or more below the current 2228
yield on United States treasury securities with a comparable 2229
maturity. If the loan's current interest rate is either a 2230
discounted introductory rate or a rate that automatically steps up 2231
over time, the fully indexed rate or the fully stepped-up rate, as 2232
applicable, shall be used, in lieu of the current rate, to 2233
determine whether a loan is a low-rate mortgage loan. 2234

(5) Instructing the consumer to ignore the supplier's written 2235
information regarding the interest rate and dollar value of points 2236
because they would be lower for the consumer's consumer 2237
transaction; 2238

(6) Recommending or encouraging a consumer to default on a 2239
mortgage or any consumer transaction or revolving credit loan 2240
agreement; 2241

(7) Charging a late fee more than once with respect to a 2242
single late payment. If a late payment fee is deducted from a 2243
payment made on the loan and such deduction causes a subsequent 2244
default on a subsequent payment, no late payment fee may be 2245
imposed for such default. If a late payment fee has been imposed 2246
once with respect to a particular late payment, no such fee may be 2247
imposed with respect to any future payment that would have been 2248
timely and sufficient but for the previous default. 2249

(8) Failing to disclose to the consumer at the closing of the 2250
consumer transaction that a consumer is not required to complete a 2251
consumer transaction merely because the consumer has received 2252
prior estimates of closing costs or has signed an application and 2253
should not close a loan transaction that contains different terms 2254
and conditions than those the consumer was promised; 2255

(9) Arranging for or making a consumer transaction that 2256
includes terms under which more than two periodic payments 2257
required under the consumer transaction are consolidated and paid 2258
in advance from the loan proceeds provided to the consumer; 2259

(10) Knowingly compensating, instructing, inducing, coercing, 2260
or intimidating, or attempting to compensate, instruct, induce, 2261
coerce, or intimidate, a person licensed or certified under 2262
Chapter 4763. of the Revised Code for the purpose of corrupting or 2263
improperly influencing the independent judgment of the person with 2264
respect to the value of the dwelling offered as security for 2265
repayment of a mortgage loan; 2266

(11) Financing, directly or indirectly, any credit, life, 2267
disability, or unemployment insurance premiums, any other life or 2268
health insurance premiums, or any debt collection agreement. 2269
Insurance premiums calculated and paid on a monthly basis shall 2270
not be considered financed by the lender. 2271

(12) Knowingly or intentionally engaging in the act or 2272

practice of "flipping" a mortgage loan. "Flipping" a mortgage loan 2273
is making a mortgage loan that refinances an existing mortgage 2274
loan when the new loan does not have reasonable, tangible net 2275
benefit to the consumer considering all of the circumstances, 2276
including the terms of both the new and refinanced loans, the cost 2277
of the new loan, and the consumer's circumstances. This provision 2278
applies regardless of whether the interest rate, points, fees, and 2279
charges paid or payable by the consumer in connection with the 2280
refinancing exceed any thresholds specified in any section of the 2281
Revised Code. 2282

(13) Knowingly taking advantage of the inability of the 2283
consumer to reasonably protect the consumer's interests because of 2284
the consumer's known physical or mental infirmities or illiteracy; 2285

(14) Entering into the consumer transaction knowing there was 2286
no reasonable probability of payment of the obligation by the 2287
consumer; 2288

(15) Attempting to enforce, by means not limited to a court 2289
action, a prepayment penalty in violation of division (C)(2) of 2290
section 1343.011 of the Revised Code; 2291

(16) Engaging in an act or practice deemed unconscionable by 2292
rules adopted by the attorney general pursuant to division (B)(2) 2293
of section 1345.05 of the Revised Code. 2294

(C)(1) Any unconscionable arbitration clause, unconscionable 2295
clause requiring the consumer to pay the supplier's attorney's 2296
fees, or unconscionable liquidated damages clause included in a 2297
mortgage loan contract is unenforceable. 2298

(2) No supplier shall do either of the following: 2299

(a) Attempt to enforce, by means not limited to a court 2300
action, any clause described in division (C)(1) of this section; 2301

(b) By referring to such a clause, attempt to induce the 2302

consumer to take any action desired by the supplier. 2303

Sec. 1345.05. (A) The attorney general shall: 2304

(1) Adopt, amend, and repeal procedural rules; 2305

(2) Adopt as a rule a description of the organization of ~~his~~ 2306
the attorney general's office, stating the general courses and 2307
methods of operation of the section of the office of the attorney 2308
general, which is to administer Chapter 1345. of the Revised Code 2309
and methods whereby the public may obtain information or make 2310
submissions or requests, including a description of all forms and 2311
instructions used by that office; 2312

(3) Make available for public inspection all rules and all 2313
other written statements of policy or interpretations adopted or 2314
used by ~~him~~ the attorney general in the discharge of ~~his~~ the 2315
attorney general's functions, together with all judgments, 2316
including supporting opinions, by courts of this state that 2317
determine the rights of the parties and concerning which appellate 2318
remedies have been exhausted, or lost by the expiration of the 2319
time for appeal, determining that specific acts or practices 2320
violate section 1345.02 ~~or~~ 1345.03, or 1345.031 of the Revised 2321
Code; 2322

(4) Inform consumers and suppliers on a continuing basis of 2323
acts or practices ~~which~~ that violate Chapter 1345. of the Revised 2324
Code by, among other things, publishing an informational document 2325
describing acts and practices in connection with residential 2326
mortgages that are unfair, deceptive, or unconscionable, and by 2327
making that information available on the attorney general's 2328
official web site; 2329

(5) Cooperate with state and local officials, officials of 2330
other states, and officials of the federal government in the 2331
administration of comparable statutes; 2332

(6) Report annually on or before the first day of January to the governor and the general assembly on the operations of the attorney general in respect to Chapter 1345. of the Revised Code, and on the acts or practices occurring in this state that violate such chapter. The report shall include a statement of investigatory and enforcement procedures and policies, of the number of investigations and enforcement proceedings instituted and of their disposition, and of other activities of the state and of other persons to promote the purposes of Chapter 1345. of the Revised Code.

(7) In carrying out ~~his~~ official duties, the attorney general shall not disclose publicly the identity of suppliers investigated or the facts developed in investigations unless these matters have become a matter of public record in enforcement proceedings, in public hearings conducted pursuant to division (B)(1) of this section, or the suppliers investigated have consented in writing to public disclosure.

(B) The attorney general may:

(1) Conduct research, make inquiries, hold public hearings, and publish studies relating to consumer transactions;

(2) Adopt, amend, and repeal substantive rules defining with reasonable specificity acts or practices that violate sections 1345.02 ~~and~~, 1345.03, and 1345.031 of the Revised Code. In adopting, amending, or repealing substantive rules defining acts or practices that violate section 1345.02 of the Revised Code, due consideration and great weight shall be given to federal trade commission orders, trade regulation rules and guides, and the federal courts' interpretations of subsection 45 (a)(1) of the "Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 41, as amended.

In adopting, amending, or repealing such rules concerning a

consumer transaction in connection with a residential mortgage, 2364
the attorney general shall consult with the superintendent of 2365
financial institutions and shall give due consideration to state 2366
and federal statutes, regulations, administrative agency 2367
interpretations, and case law. 2368

(C) In the conduct of public hearings authorized by this 2369
section, the attorney general may administer oaths, subpoena 2370
witnesses, adduce evidence, and require the production of relevant 2371
material. Upon failure of a person without lawful excuse to obey a 2372
subpoena or to produce relevant matter, the attorney general may 2373
apply to a court of common pleas for an order compelling 2374
compliance. 2375

(D) The attorney general may request that an individual who 2376
refuses to testify or to produce relevant material on the ground 2377
that the testimony or matter may incriminate ~~him~~ the individual be 2378
ordered by the court to provide the testimony or matter. With the 2379
exception of a prosecution for perjury and an action for damages 2380
under section 1345.07 or 1345.09 of the Revised Code, an 2381
individual who complies with a court order to provide testimony or 2382
matter, after asserting a privilege against self incrimination to 2383
which ~~he~~ the individual is entitled by law, shall not be subjected 2384
to a criminal proceeding on the basis of the testimony or matter 2385
discovered through that testimony or matter. 2386

(E) Any person may petition the attorney general requesting 2387
the adoption, amendment, or repeal of a rule. The attorney general 2388
shall prescribe by rule the form for such petitions and the 2389
procedure for their submission, consideration, and disposition. 2390
Within sixty days of submission of a petition, the attorney 2391
general shall either deny the petition in writing, stating ~~his~~ the 2392
reasons for the denial, or initiate rule-making proceedings. There 2393
is no right to appeal from such denial of a petition. 2394

(F) All rules shall be adopted subject to Chapter 119. of the 2395

Revised Code. 2396

(G) The informational document published in accordance with 2397
division (A)(4) of this section shall be made available for 2398
distribution to consumers who are applying for a mortgage loan. An 2399
acknowledgement of receipt shall be retained by the lender, 2400
mortgage broker, and loan officer, as applicable, subject to 2401
review by the attorney general and the department of commerce. 2402

Sec. 1345.07. (A) If the attorney general, by ~~his~~ the 2403
attorney general's own inquiries or as a result of complaints, has 2404
reasonable cause to believe that a supplier has engaged or is 2405
engaging in an act or practice that violates this chapter, and 2406
that the action would be in the public interest, ~~he~~ the attorney 2407
general may bring any of the following: 2408

(1) An action to obtain a declaratory judgment that the act 2409
or practice violates section 1345.02 ~~or~~, 1345.03, or 1345.031 of 2410
the Revised Code; 2411

(2) An action, with notice as required by Civil Rule 65, to 2412
obtain a temporary restraining order, preliminary injunction, or 2413
permanent injunction to restrain the act or practice. If the 2414
attorney general shows by a preponderance of the evidence that the 2415
supplier has violated or is violating section 1345.02 ~~or~~, 1345.03, 2416
or 1345.031 of the Revised Code, the court may issue a temporary 2417
restraining order, preliminary injunction, or permanent injunction 2418
to restrain and prevent the act or practice. On motion of the 2419
attorney general, or on its own motion, the court may impose a 2420
civil penalty of not more than five thousand dollars for each day 2421
of violation of a temporary restraining order, preliminary 2422
injunction, or permanent injunction issued under this section, if 2423
the supplier received notice of the action. The civil penalties 2424
shall be paid as provided in division (G) of this section. Upon 2425
the commencement of an action under division (A)(2) of this 2426

section against a supplier who operates under a license, permit, 2427
certificate, commission, or other authorization issued by the 2428
supreme court or by a board, commission, department, division, or 2429
other agency of this state, the attorney general shall immediately 2430
notify the supreme court or agency that such an action has been 2431
commenced against the supplier. 2432

(3) A class action under Civil Rule 23, as amended, on behalf 2433
of consumers who have engaged in consumer transactions in this 2434
state for damage caused by: 2435

(a) An act or practice enumerated in division (B) or (D) of 2436
section 1345.02 of the Revised Code; 2437

(b) Violation of a rule adopted under division (B)(2) of 2438
section 1345.05 of the Revised Code before the consumer 2439
transaction on which the action is based; 2440

(c) An act or practice determined by a court of this state to 2441
violate section 1345.02 ~~or~~, 1345.03, or 1345.031 of the Revised 2442
Code and committed after the decision containing the determination 2443
has been made available for public inspection under division 2444
(A)(3) of section 1345.05 of the Revised Code. 2445

(B) On motion of the attorney general and without bond, in 2446
the attorney general's action under this section, the court may 2447
make appropriate orders, including appointment of a referee or a 2448
receiver, for sequestration of assets, to reimburse consumers 2449
found to have been damaged, to carry out a transaction in 2450
accordance with a consumer's reasonable expectations, to strike or 2451
limit the application of unconscionable clauses of contracts so as 2452
to avoid an unconscionable result, or to grant other appropriate 2453
relief. The court may assess the expenses of a referee or receiver 2454
against the supplier. 2455

(C) Any moneys or property recovered by the attorney general 2456
in an action under this section that cannot with due diligence 2457

within five years be restored by a referee to consumers shall be 2458
unclaimed funds reportable under Chapter 169. of the Revised Code. 2459

(D) In addition to the other remedies provided in this 2460
section, if the violation is an act or practice that was declared 2461
to be unfair, deceptive, or unconscionable by a rule adopted 2462
pursuant to division (B)(2) of section 1345.05 of the Revised Code 2463
before the consumer transaction on which the action is based 2464
occurred or an act or practice that was determined by a court of 2465
this state to violate section 1345.02 ~~or~~, 1345.03, or 1345.031 of 2466
the Revised Code and committed after the decision containing the 2467
court's determination was made available for public inspection 2468
pursuant to division (A)(3) of section 1345.05 of the Revised 2469
Code, the attorney general may request and the court may impose a 2470
civil penalty of not more than twenty-five thousand dollars 2471
against the supplier. The civil penalties shall be paid as 2472
provided in division (G) of this section. 2473

(E) No action may be brought by the attorney general under 2474
this section to recover for a transaction more than two years 2475
after the occurrence of a violation. 2476

(F) If a court determines that provision has been made for 2477
reimbursement or other appropriate corrective action, insofar as 2478
practicable, with respect to all consumers damaged by a violation, 2479
or in any other appropriate case, the attorney general, with court 2480
approval, may terminate enforcement proceedings brought by ~~him~~ the 2481
attorney general upon acceptance of an assurance from the supplier 2482
of voluntary compliance with Chapter 1345. of the Revised Code, 2483
with respect to the alleged violation. The assurance shall be 2484
filed with the court and entered as a consent judgment. Except as 2485
provided in division (A) of section 1345.10 of the Revised Code, a 2486
consent judgment is not evidence of prior violation of such 2487
chapter. Disregard of the terms of a consent judgment entered upon 2488
an assurance shall be treated as a violation of an injunction 2489

issued under this section. 2490

(G) Civil penalties ordered pursuant to divisions (A) and (D) 2491
of this section shall be paid as follows: one-fourth of the amount 2492
to the treasurer of the county in which the action is brought and 2493
three-fourths to the consumer protection enforcement fund created 2494
by section 1345.51 of the Revised Code. 2495

(H) The remedies available to the attorney general under this 2496
section are cumulative and concurrent, and the exercise of one 2497
remedy by the attorney general does not preclude or require the 2498
exercise of any other remedy. The attorney general is not required 2499
to use any procedure set forth in section 1345.06 of the Revised 2500
Code prior to the exercise of any remedy set forth in this 2501
section. 2502

Sec. 1345.09. For a violation of Chapter 1345. of the Revised 2503
Code, a consumer has a cause of action and is entitled to relief 2504
as follows: 2505

(A) Where the violation was an act prohibited by section 2506
1345.02 ~~or~~, 1345.03, or 1345.031 of the Revised Code, the consumer 2507
may, in an individual action, rescind the transaction or recover 2508
~~his~~ the consumer's damages. 2509

(B) Where the violation was an act or practice declared to be 2510
deceptive or unconscionable by rule adopted under division (B) (2) 2511
of section 1345.05 of the Revised Code before the consumer 2512
transaction on which the action is based, or an act or practice 2513
determined by a court of this state to violate section 1345.02 ~~or~~, 2514
1345.03, or 1345.031 of the Revised Code and committed after the 2515
decision containing the determination has been made available for 2516
public inspection under division (A)(3) of section 1345.05 of the 2517
Revised Code, the consumer may rescind the transaction or recover, 2518
but not in a class action, three times the amount of ~~his~~ the 2519
consumer's actual damages or two hundred dollars, whichever is 2520

greater, or recover damages or other appropriate relief in a class 2521
action under Civil Rule 23, as amended. 2522

(C) ~~In~~ (1) Except as otherwise provided in division (C)(2) of 2523
this section, in any action for rescission, revocation of the 2524
consumer transaction must occur within a reasonable time after the 2525
consumer discovers or should have discovered the ground for it and 2526
before any substantial change in condition of the subject of the 2527
consumer transaction. 2528

(2) If a consumer transaction between a loan officer, 2529
mortgage broker, or nonbank mortgage lender and a customer is in 2530
connection with a residential mortgage, revocation of the consumer 2531
transaction in an action for rescission is only available to a 2532
consumer in an individual action, and shall occur for no reason 2533
other than one or more of the reasons set forth in the "Truth in 2534
Lending Act," 82 Stat. 146 (1968), 15 U.S.C. 1635, not later than 2535
the time limit within which the right of rescission under section 2536
125(f) of the "Truth in Lending Act" expires. 2537

(D) Any consumer may seek a declaratory judgment, an 2538
injunction, or other appropriate relief against an act or practice 2539
that violates this chapter. 2540

(E) When a consumer commences an individual action for a 2541
declaratory judgment or an injunction or a class action under this 2542
section, the clerk of court shall immediately mail a copy of the 2543
complaint to the attorney general. Upon timely application, the 2544
attorney general may be permitted to intervene in any private 2545
action or appeal pending under this section. When a judgment under 2546
this section becomes final, the clerk of court shall mail a copy 2547
of the judgment including supporting opinions to the attorney 2548
general for inclusion in the public file maintained under division 2549
(A)(3) of section 1345.05 of the Revised Code. 2550

(F) The court may award to the prevailing party a reasonable 2551

attorney's fee limited to the work reasonably performed, if either 2552
of the following apply: 2553

(1) The consumer complaining of the act or practice that 2554
violated this chapter has brought or maintained an action that is 2555
groundless, and the consumer filed or maintained the action in bad 2556
faith; 2557

(2) The supplier has knowingly committed an act or practice 2558
that violates this chapter. 2559

Sec. 1345.091. No claim or defense under this chapter may be 2560
asserted by the attorney general or any consumer against an 2561
assignee or purchaser of a mortgage loan for value unless any one 2562
of the following applies: 2563

(A) The violation was committed by the assignee or purchaser. 2564

(B) The assignee or purchaser is affiliated by common control 2565
with the seller of the loan at the time of such assignment or 2566
purchase. 2567

Sec. 1349.25. As used in sections 1349.25 to 1349.37 of the 2568
Revised Code: 2569

(A) "Actuarial method" means the method of allocating 2570
payments made on a debt between the amount financed and the 2571
finance charge pursuant to which a payment is applied first to the 2572
accumulated finance charge and any remainder is subtracted from, 2573
or any deficiency is added to, the unpaid balance of the amount 2574
financed. 2575

(B) "Consumer" means a natural person to whom credit is 2576
offered or extended primarily for personal, family, or household 2577
purposes. 2578

(C) "Consummation" means the time that a consumer becomes 2579
contractually obligated on a credit transaction. 2580

(D) "Covered loan" means a consumer credit mortgage loan 2581
transaction, including an open end credit plan, that ~~meets both of~~ 2582
~~the following criteria:~~ 2583

~~(1) The loan~~ involves property located within this state-, is 2584
secured by the consumer's principal dwelling, and meets either of 2585
the following criteria: 2586

~~(2)(1) The loan is considered a mortgage~~ annual percentage 2587
rate at consummation of the transaction exceeds the amount 2588
established under section 152(a) of the "Home Ownership and Equity 2589
Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1602(aa), as 2590
amended, and the regulations adopted thereunder by the federal 2591
reserve board, as amended. 2592

(2) If the total loan amount is twenty-five thousand dollars 2593
or more, the total points and fees payable by the consumer at or 2594
before loan closing exceed five per cent of the total loan amount. 2595
If the total loan amount is less than twenty-five thousand 2596
dollars, the total points and fees payable by the consumer at or 2597
before loan closing exceed eight per cent of the total loan 2598
amount. 2599

For purposes of division (D) of this section: 2600

(a) "Points and fees" has the same meaning as in section 2601
152(a) of the "Home Ownership and Equity Protection Act of 1994," 2602
108 Stat. 2190, 15 U.S.C. 1602(aa), as amended, and the 2603
regulations adopted thereunder by the federal reserve board, as 2604
amended, and includes single premium credit insurance and all 2605
compensation paid directly or indirectly to a mortgage broker from 2606
any source. For transactions under an open end credit plan, 2607
"points and fees" includes fees paid for the ability to access the 2608
line of credit and fees paid in order to utilize the maximum 2609
amount of credit available. 2610

"Points and fees" does not include fees paid to a federal or 2611

state government agency that insures payment of some portion of a 2612
home loan, including the federal housing administration and the 2613
United States department of veterans affairs, or an amount not to 2614
exceed one percentage point in indirect mortgage broker 2615
compensation paid by any source. 2616

(b) "Total loan amount" means the principal of the loan minus 2617
points and fees that are included in the principal amount. For 2618
transactions under an open end credit plan, "total loan amount" 2619
shall be calculated by using the total line of credit allowed 2620
under the loan at closing. 2621

(c) "Consumer credit mortgage loan transaction" does not 2622
include a residential mortgage transaction or a reverse mortgage 2623
transaction. 2624

Nothing in division (D) of this section shall be construed to 2625
authorize a consumer or any other party to pay compensation to a 2626
creditor for services provided by the creditor in connection with 2627
a covered loan, or to prohibit a creditor from charging or 2628
receiving such compensation. 2629

(E) "Credit" means the right granted by a creditor to a 2630
debtor to defer payment of debt or to incur debt and defer its 2631
payment. 2632

(F) "Creditor" has the same meaning as in section 152(c) of 2633
the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2634
2190, 15 U.S.C.A. 1602(f), as amended, and the regulations adopted 2635
thereunder by the federal reserve board, as amended. 2636

(G) "Person" means a natural person, partnership, 2637
association, trust, corporation, or any other legal entity. 2638

(H) The terms "open end credit plan," "residential mortgage 2639
transaction," and "reverse mortgage transaction" have the same 2640
meanings as in section 152(a) of the "Home Ownership and Equity 2641
Protection Act of 1994," 108 Stat. 2190, 15 U.S.C. 1602, as 2642

amended, and the regulations adopted thereunder by the federal 2643
reserve board, as amended. 2644

Sec. 1349.27. A creditor shall not do any of the following: 2645

(A) Make a covered loan that includes any of the following: 2646

(1) Terms under which a consumer must pay a prepayment 2647
penalty for paying all or part of the principal before the date on 2648
which the principal is due. For purposes of division (A)(1) of 2649
this section, any method of computing a refund of unearned 2650
scheduled interest is a prepayment penalty if it is less favorable 2651
to the consumer than the actuarial method. 2652

Division (A)(1) of this section does not apply to a 2653
prepayment penalty imposed in accordance with section 129(c)(2) of 2654
the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2655
2190, 15 U.S.C.A. 1639(c)(2), as amended, and the regulations 2656
adopted thereunder by the federal reserve board, as amended. 2657

(2) Terms under which the outstanding principal balance will 2658
increase at any time over the course of the loan because the 2659
regular periodic payments do not cover the full amount of interest 2660
due; 2661

(3) Terms under which more than two periodic payments 2662
required under the loan are consolidated and paid in advance from 2663
the loan proceeds provided to the consumer; 2664

(4) Terms under which a rebate of interest arising from a 2665
loan acceleration due to default is calculated by a method less 2666
favorable than the actuarial method. 2667

(B) Make a covered loan that provides for an interest rate 2668
applicable after default that is higher than the interest rate 2669
that applies before default; 2670

(C) Make a covered loan having a term of less than five years 2671
that includes terms under which the aggregate amount of the 2672

regular periodic payments would not fully amortize the outstanding 2673
principal balance. This division does not apply to any covered 2674
loan with a maturity of less than one year, if the purpose of the 2675
loan is a "bridge" loan connected with the acquisition or 2676
construction of a dwelling intended to become the consumer's 2677
principal dwelling. 2678

(D) Engage in a pattern or practice of extending credit to 2679
consumers under covered loans based on the consumers' collateral 2680
without regard to the consumers' repayment ability, including the 2681
consumers' current and expected income, current obligations, and 2682
employment; 2683

(E) Make a payment to a contractor under a home improvement 2684
contract from amounts extended as credit under a covered loan, 2685
except in either of the following ways: 2686

(1) By an instrument that is payable to the consumer or 2687
jointly to the consumer and the contractor; 2688

(2) At the election of the consumer, by a third party escrow 2689
agent in accordance with terms established in a written agreement 2690
signed by the consumer, the creditor, and the contractor before 2691
the date of payment. 2692

(F) On or after October 1, 2002, make a covered loan that 2693
includes a demand feature that permits the creditor to terminate 2694
the loan in advance of the original maturity date and to demand 2695
repayment of the entire outstanding balance, except in any of the 2696
following circumstances: 2697

(1) There is fraud or material misrepresentation by the 2698
consumer in connection with the loan. 2699

(2) The consumer fails to meet the repayment terms of the 2700
agreement for any outstanding balance. 2701

(3) There is any action or inaction by the consumer that 2702

adversely affects the creditor's security for the loan or any 2703
right of the creditor in that security. 2704

(G)(1) Within one year after having made a covered loan, 2705
refinance a covered loan to the same borrower into another covered 2706
loan, unless the refinancing is in the consumer's interest. An 2707
assignee holding or servicing a covered loan shall not, for the 2708
remainder of the one-year period following the date of origination 2709
of the covered loan, refinance any covered loan to the same 2710
consumer into another covered loan, unless the refinancing is in 2711
the consumer's interest. 2712

A creditor or assignee shall not engage in acts or practices 2713
to evade division (G)(1) of this section, including a pattern or 2714
practice of arranging for the refinancing of its own loans by 2715
affiliated or unaffiliated creditors, or modifying a loan 2716
agreement, whether or not the existing loan is satisfied and 2717
replaced by the new loan, and charging a fee. 2718

(2) Division (G)(1) of this section shall apply on and after 2719
October 1, 2002. 2720

(H) Make a covered loan without first obtaining a copy of the 2721
mortgage loan origination disclosure statement that was delivered 2722
to the buyer in accordance with division (A)(1) of section 2723
1322.062 of the Revised Code; 2724

(I) Finance, directly or indirectly, into a covered loan or 2725
finance to the same borrower within thirty days of a covered loan 2726
any credit life or credit disability insurance premiums sold in 2727
connection with the covered loan, provided that any credit life or 2728
credit disability insurance premiums calculated and paid on a 2729
monthly or other periodic basis shall not be considered financed 2730
by the person originating the loan. For purposes of this division, 2731
credit life or credit disability insurance does not include a 2732
contract issued by a government agency or private mortgage 2733

insurance company to insure the lender against loss caused by a 2734
mortgagor's default. 2735

(J) Replace or consolidate a zero interest rate or other 2736
low-rate loan made by a governmental or nonprofit lender with a 2737
covered loan within the first ten years of the low-rate loan 2738
unless the current holder of the loan consents in writing to the 2739
refinancing. For purposes of this division, a "low-rate loan" 2740
means a loan that carries a current interest rate two percentage 2741
points or more below the current yield on United States treasury 2742
securities with a comparable maturity. If the loan's current 2743
interest rate is either a discounted introductory rate or a rate 2744
that automatically steps up over time, the fully indexed rate or 2745
the fully stepped-up rate, as applicable, shall be used, in lieu 2746
of the current rate, to determine whether a loan is a low-rate 2747
loan. 2748

(K) Make a covered loan if, at the time the loan was 2749
consummated, the consumer's total monthly debt, including amounts 2750
owed under the loan, exceed fifty per cent of the consumer's 2751
monthly gross income, as verified by the credit application, the 2752
consumer's financial statement, a credit report, financial 2753
information provided to the person originating the loan by or on 2754
behalf of the consumer, or any other reasonable means, unless the 2755
consumer submits both of the following: 2756

(1) Verification that the consumer received prepurchase 2757
counseling from a counseling service that meets the criteria 2758
established by the superintendent of financial institutions under 2759
section 1349.271 of the Revised Code; 2760

(2) A disclosure, signed by the consumer, that acknowledges 2761
the risk of entering into such a loan. 2762

Sec. 1349.271. (A) The superintendent of financial 2763
institutions shall, in accordance with Chapter 119. of the Revised 2764

Code, adopt rules that establish criteria for purposes of 2765
qualifying counseling services that provide prepurchase counseling 2766
to consumers. 2767

(B) Any not-for-profit credit counseling service approved by 2768
an agency of the federal government shall be deemed to meet the 2769
criteria established by the superintendent under this section. 2770

Sec. 1349.31. (A)(1) No creditor shall willfully and 2771
knowingly fail to comply with section 1349.26 or 1349.27 of the 2772
Revised Code. For purposes of division (A)(1) of this section, 2773
"willfully and knowingly" has the same meaning as in section 112 2774
of the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C.A. 2775
1611, as amended. 2776

(2) Whoever violates division (A)(1) of this section is 2777
guilty of a felony of the fifth degree. 2778

(B) The superintendent of financial institutions may directly 2779
bring an action to enjoin a violation of this section. The 2780
attorney general may directly bring an action against a mortgage 2781
broker, loan officer, or nonbank mortgage lender to enjoin a 2782
violation of this section with the same rights, privileges, and 2783
powers as those described in section 1345.06 of the Revised Code. 2784
The prosecuting attorney of the county in which the action may be 2785
brought may bring an action against a mortgage broker, loan 2786
officer, or nonbank mortgage lender to enjoin a violation of this 2787
section only if the prosecuting attorney first presents any 2788
evidence of the violation to the attorney general and, within a 2789
reasonable period of time, the attorney general has not agreed to 2790
bring the action. 2791

For purposes of this division, "loan officer," "mortgage 2792
broker," and "nonbank mortgage lender" have the same meanings as 2793
in section 1345.01 of the Revised Code. 2794

(C)(1) The superintendent of financial institutions may 2795
initiate criminal proceedings under this section by presenting any 2796
evidence of criminal violations to the prosecuting attorney of the 2797
county in which the offense may be prosecuted. If the prosecuting 2798
attorney does not prosecute the violations, or at the request of 2799
the prosecuting attorney, the superintendent shall present any 2800
evidence of criminal violations to the attorney general, who may 2801
proceed in the prosecution with all the rights, privileges, and 2802
powers conferred by law on prosecuting attorneys, including the 2803
power to appear before grand juries and to interrogate witnesses 2804
before such grand juries. These powers of the attorney general 2805
shall be in addition to any other applicable powers of the 2806
attorney general. 2807

(2) The prosecuting attorney of the county in which an 2808
alleged offense may be prosecuted may initiate criminal 2809
proceedings under this section. 2810

(3) In order to initiate criminal proceedings under this 2811
section, the attorney general shall first present any evidence of 2812
criminal violations to the prosecuting attorney of the county in 2813
which the alleged offense may be prosecuted. If, within a 2814
reasonable period of time, the prosecuting attorney has not agreed 2815
to prosecute the violations, the attorney general may proceed in 2816
the prosecution with all the rights, privileges, and powers 2817
described in division (C)(1) of this section. 2818

Sec. 1349.41. (A) As used in this section: 2819

(1) "Consumer" means an individual to whom credit is offered 2820
or extended primarily for personal, family, or household purposes. 2821

(2) "Lender" means a nonbank mortgage lender as defined in 2822
section 1345.01 of the Revised Code. "Lender" does not include a 2823
person that purchases or is assigned a loan or that functions 2824
solely as the servicer of a loan. 2825

(3) "Mortgage" has the same meaning as in section 1322.01 of 2826
the Revised Code. 2827

(B) A lender shall not engage in a transaction, practice, or 2828
course of business that is not in good faith or fair dealing, or 2829
that operates a fraud upon any person, in connection with the 2830
attempted or actual making, purchase, or sale of any mortgage 2831
loan. 2832

(C) If a lender fails to comply with division (B) of this 2833
section, the affected consumer may recover damages of not less 2834
than all compensation paid directly or indirectly to the lender 2835
from any source, plus reasonable attorney's fees and court costs. 2836

(D) The duty created by this section shall not be waived or 2837
modified. 2838

Sec. 1349.43. (A) As used in this section, "loan officer," 2839
"mortgage broker," and "nonbank mortgage lender" have the same 2840
meanings as in section 1345.01 of the Revised Code. 2841

(B) The department of commerce shall establish and maintain 2842
an electronic database accessible through the internet that 2843
contains information on all of the following: 2844

(1) The enforcement actions taken by the superintendent of 2845
financial institutions for each violation of or failure to comply 2846
with any provision of sections 1322.01 to 1322.12 of the Revised 2847
Code, upon final disposition of the action; 2848

(2) The enforcement actions taken by the attorney general 2849
under Chapter 1345. of the Revised Code against loan officers, 2850
mortgage brokers, and nonbank mortgage lenders, upon final 2851
disposition of each action; 2852

(3) All judgments by courts of this state, concerning which 2853
appellate remedies have been exhausted or lost by the expiration 2854
of the time for appeal, finding either of the following: 2855

<u>(a) A violation of any provision of sections 1322.01 to</u>	2856
<u>1322.12 of the Revised Code;</u>	2857
<u>(b) That specific acts or practices by a loan officer,</u>	2858
<u>mortgage broker, or nonbank mortgage lender violate section</u>	2859
<u>1345.02, 1345.03, or 1345.031 of the Revised Code.</u>	2860
<u>(C) The attorney general shall submit to the department, on</u>	2861
<u>the first day of each January, April, July, and October, a list of</u>	2862
<u>all enforcement actions and judgments described in divisions</u>	2863
<u>(B)(2) and (3)(b) of this section.</u>	2864
<u>(D) The department may adopt rules in accordance with Chapter</u>	2865
<u>119. of the Revised Code that are necessary to implement this</u>	2866
<u>section.</u>	2867
<u>(E) The electronic database maintained by the department in</u>	2868
<u>accordance with this section shall not include information that,</u>	2869
<u>pursuant to section 1322.061 of the Revised Code, is confidential.</u>	2870
 <u>Sec. 1349.44. (A) The superintendent of financial</u>	2871
<u>institutions shall report semiannually to the governor and the</u>	2872
<u>general assembly on the operations of the division of financial</u>	2873
<u>institutions with respect to the following:</u>	2874
 <u>(1) Enforcement actions instituted by the superintendent for</u>	2875
<u>a violation of or failure to comply with any provision of sections</u>	2876
<u>1322.01 to 1322.12 of the Revised Code, and their final</u>	2877
<u>dispositions;</u>	2878
 <u>(2) Suspensions, revocations, or refusals to issue or renew</u>	2879
<u>certificates of registration and licenses under sections 1322.01</u>	2880
<u>to 1322.12 of the Revised Code;</u>	2881
 <u>(3) Outreach efforts of the office of consumer affairs to</u>	2882
<u>provide education regarding predatory lending, borrowing, and</u>	2883
<u>related financial topics.</u>	2884
 <u>(B) The information required under divisions (A)(1) and (2)</u>	2885

of this section does not include information that, pursuant to 2886
section 1322.061 of the Revised Code, is confidential. 2887

Sec. 1349.71. (A) There is hereby created a consumer finance 2888
education board, consisting of twelve members, appointed jointly 2889
by the governor, the speaker of the house of representatives, and 2890
the president of the senate with the advice and consent of the 2891
house and senate. One member shall be appointed from, or as a 2892
representative of, each of the following: 2893

(1) The Ohio attorney general's office; 2894

(2) The department of commerce; 2895

(3) The Ohio housing finance agency; 2896

(4) Ohio minority advocacy groups; 2897

(5) The Ohio bankers league; 2898

(6) The Ohio mortgage bankers association; 2899

(7) The Ohio credit union league; 2900

(8) Ohio community bankers association; 2901

(9) The Ohio real estate industry; 2902

(10) The Ohio mortgage brokers association; 2903

(11) The financial services industry; 2904

(12) Consumer advocacy organizations. 2905

(B) Geographically diverse representation of the state shall 2906
be considered in making appointments. Of the initial appointments 2907
to the board, four shall be for a term ending December 31, 2008, 2908
four shall be for a term ending December 31, 2009, and four shall 2909
be for a term ending December 31, 2010. Thereafter, terms of 2910
office are for three years, commencing on the first day of January 2911
and ending on the thirty-first day of December. Each member shall 2912
hold office from the date of the member's appointment until the 2913

end of the term for which the member is appointed. Prior to 2914
assuming the duties of office, each member shall subscribe to, and 2915
file with the secretary of state, the constitutional oath of 2916
office. Vacancies that occur on the board shall be filled in the 2917
manner prescribed for regular appointments to the board. A member 2918
appointed to fill a vacancy occurring prior to the expiration of 2919
the term for which the member's predecessor was appointed shall 2920
hold office for the remainder of that predecessor's term. A member 2921
shall continue in office subsequent to the expiration date of the 2922
member's term until the member's successor takes office or until 2923
sixty days have elapsed, whichever occurs first. No person shall 2924
serve as a member of the board for more than two consecutive 2925
terms. The governor may remove a member pursuant to section 3.04 2926
of the Revised Code. 2927

(C) Annually, upon the qualification of the members appointed 2928
in that year, the board shall organize by selecting from its 2929
members a chairperson. The board shall meet at least once each 2930
calendar quarter to conduct its business with the place of future 2931
meetings to be decided by a vote of its members. Each member shall 2932
be provided with written notice of the time and place of each 2933
board meeting at least ten days prior to the scheduled date of the 2934
meeting. A majority of the members of the board constitutes a 2935
quorum to transact and vote on all business coming before the 2936
board. 2937

(D)(1) The governor shall call the first meeting of the 2938
consumer finance education board. At that meeting, and annually 2939
thereafter, the board shall elect a chairperson for a one-year 2940
term and may elect members to other positions on the board as the 2941
board considers necessary or appropriate. 2942

(2) Each member of the board shall receive an amount fixed 2943
pursuant to division (J) of section 124.15 of the Revised Code for 2944
each day employed in the discharge of the member's official 2945

duties, and the member's actual and necessary expenses incurred in 2946
the discharge of those duties. 2947

(E) The board may obtain services from any state agency 2948
including but not limited to the department of commerce or its 2949
successor agency. 2950

(F) The board shall assemble an advisory committee of 2951
representatives from the following organizations or groups for the 2952
purpose of receiving recommendations on policy, rules, and 2953
activities of the board: 2954

(1) The department of aging; 2955

(2) The department of rehabilitation and correction; 2956

(3) The department of development; 2957

(4) The department of job and family services; 2958

(5) The Ohio treasurer of state's office; 2959

(6) The county treasurers association of Ohio; 2960

(7) Ohio college professors; 2961

(8) Ohio university professors; 2962

(9) The Ohio board of regents; 2963

(10) The Ohio community development corporations association; 2964

(11) The Ohio council for economic education; 2965

(12) The Ohio state university extension service. 2966

Sec. 1349.72. (A) In addition to any other duties imposed on 2967
the consumer finance education board by section 1349.71 of the 2968
Revised Code, the board shall: 2969

(1) Analyze and investigate, on its own initiative, the 2970
policies and practices of state agencies, nonprofit entities, and 2971
businesses, inasmuch as such policies and practices address 2972

financial literacy, access by state residents to financial 2973
information, education, and resources, prevention of foreclosures 2974
and bankruptcies, and prepurchase and postpurchase counseling and 2975
education for homebuyers; 2976

(2) Provide an annual report and consultation and 2977
recommendations to the governor, the general assembly, state 2978
agencies, nonprofit entities, and businesses based on the board's 2979
findings; 2980

(3) Coordinate and provide resources and assistance to state 2981
agencies, nonprofit entities, and businesses in the furtherance of 2982
those entities' efforts to improve financial literacy, access by 2983
state residents to financial information, education, and 2984
resources, prevention of foreclosures and bankruptcies, and 2985
repurchase and postpurchase counseling and education for 2986
homebuyers. 2987

(4) Provide financial assistance to Ohioans through grants 2988
funded through the consumer finance fund created under section 2989
1321.21 of the Revised Code and utilize these same funds to 2990
provide grants to design, develop, and implement any other 2991
programs described in this section. 2992

(5) Receive grants from the consumer finance fund for the 2993
implementation of this section. 2994

(B) The board may assign and delegate the execution of its 2995
duties to smaller groups of its own members, which shall include 2996
committees specifically chartered to address all of the following 2997
issues: 2998

(1) The needs of persons, ages eighteen to twenty-five, in 2999
the context of the objectives enumerated in division (A) of this 3000
section; 3001

(2) The needs of persons, classified as needy, based on a 3002
household adjusted gross income equal to or less than two hundred 3003

per cent of the poverty level, as determined by the Ohio office of 3004
budget and management, or the earned income amount described in 3005
section thirty-two of the Internal Revenue Code of 1986, taking 3006
into account the size of the household, in the context of the 3007
objectives enumerated in division (A) of this section; 3008

(3) The needs of persons, previously convicted of one or more 3009
felonies, in the context of the objectives enumerated in division 3010
(A) of this section; 3011

(4) The needs of persons, characterized as vulnerable by 3012
reason of advanced age, disability, minority, or other demographic 3013
consideration, in the context of the objectives enumerated in 3014
division (A) of this section; 3015

(5) Any other group or issue identified by the board as 3016
worthy of particular attention. 3017

(C) The board shall create a pilot financial literacy and 3018
counseling program funded through the consumer finance fund, to be 3019
operated in the five counties with the highest mortgage 3020
foreclosure rates as of the effective date of this section, and 3021
completion of which shall be recommended by mortgage brokers and 3022
loan officers for any consumer seeking a mortgage loan with 3023
origination fees greater than five per cent. Before a mortgage 3024
broker permits a consumer to commit to such a loan, the broker 3025
shall notify the consumer that the loan may have attributes that 3026
are predatory. No person who offers education, advice, or 3027
counseling through the financial literacy and counseling program 3028
shall be held liable for any damages incurred from actions taken 3029
based on the education, advice, or counseling given. 3030

Sec. 3953.23. (A) Every title insurance agent shall keep 3031
books of account and record and vouchers pertaining to the 3032
business of title insurance in such manner that the title 3033
insurance company may readily ascertain from time to time whether 3034

the agent has complied with this chapter. 3035

(B) A title insurance agent may engage in the business of 3036
handling escrows of real property transactions ~~directly connected~~ 3037
~~with the business of title insurance,~~ provided that the agent 3038
shall maintain a separate record of all receipts and disbursements 3039
of escrow funds and shall not commingle any such funds with the 3040
agent's own funds or with funds held by the agent in any other 3041
capacity; and if at any time the superintendent of insurance 3042
determines that an agent has failed to comply with any of the 3043
provisions of this section, the superintendent may revoke the 3044
license of the agent pursuant to section 3905.14 of the Revised 3045
Code, subject to review as provided for in Chapter 119. of the 3046
Revised Code. ~~All agents shall be covered by a fidelity bond in an~~ 3047
~~amount and with a company satisfactory to the principal.~~ 3048

(C) All title insurance agents or agencies that handle 3049
escrows in real property transactions not involving the issuance 3050
of title insurance shall have coverage that protects the parties 3051
to such transactions against theft, misappropriation, fraud, or 3052
any other failure to properly disburse settlement, closing, or 3053
escrow funds. The superintendent shall adopt rules under Chapter 3054
119. of the Revised Code setting forth the minimum requirements 3055
for such coverage, including, but not limited to, the minimum 3056
amounts, terms, and conditions of such coverage. 3057

(D) The superintendent shall require every title insurance 3058
agent or agency and any subcontractors to maintain an errors and 3059
omissions policy, in any amount exceeding minimum limits 3060
established by the superintendent, that includes but is not 3061
limited to coverage for the agent's or agency's delegation of any 3062
agent or agency function. The superintendent shall adopt rules 3063
under Chapter 119. of the Revised Code setting forth the minimum 3064
requirements for that coverage, including but not limited to the 3065
minimum amounts, terms, and conditions of the coverage. 3066

Sec. 3953.30. (A) As used in this section: 3067

(1) "Residential mortgage loan" means an obligation to pay a 3068
sum of money evidenced by a note and secured by a lien upon real 3069
property located within this state containing two or fewer 3070
residential units or on which two or fewer residential units are 3071
to be constructed and includes such an obligation on a residential 3072
condominium or cooperative unit. 3073

(2) "Residential mortgage lender" means any person, 3074
including, but not limited to, banks, savings and loan 3075
associations, mortgage brokers, credit unions, or savings banks, 3076
that lends money or extends or grants credit and obtains a 3077
residential mortgage to assure payment of the debt. 3078

(B) A title insurance agent issuing a lender's title 3079
insurance policy in conjunction with a residential mortgage loan 3080
made simultaneously with the purchase of all or part of the real 3081
property securing the loan, where no owner's title insurance 3082
policy has been requested, shall give written notice, on a form 3083
prescribed or approved by the superintendent of insurance, to the 3084
mortgagor at the time the commitment is prepared. The notice shall 3085
explain that a lender's title insurance policy is to be issued 3086
protecting the residential mortgage lender, and that the policy 3087
does not provide title insurance protection to the mortgagor as 3088
the owner of the property being purchased. The notice shall 3089
explain what an owner's title insurance policy insures against and 3090
what possible exposures exist for the mortgagor that could be 3091
insured against through the purchase of an owner's title insurance 3092
policy. The notice shall state that the mortgagor may obtain an 3093
owner's title insurance policy protecting the mortgagor as the 3094
owner of the property, either at a specified cost or at an 3095
approximate cost if the proposed coverages or amount of insurance 3096
is not then known. The title insurance agent shall maintain a copy 3097

of the notice, signed by the mortgagor, in the relevant 3098
underwriting file for at least ten years after the effective date 3099
of the lender's title insurance policy. 3100

Sec. 3953.32. (A) At the time of close with a title insurance 3101
company for issuance of a title insurance policy, the title 3102
insurance company or the title insurance agent shall offer closing 3103
or settlement protection to the lender, borrower, and seller of 3104
the property, and to any applicant for title insurance. 3105

(B) The closing or settlement protection offered pursuant to 3106
this section shall indemnify any lender, borrower, seller, and 3107
applicant that has requested the protection, both individually and 3108
collectively, against the loss of settlement funds resulting from 3109
any of the following acts of the title insurance company's named 3110
title insurance agent or anyone acting on the agent's behalf: 3111

(1) Theft, misappropriation, fraud, or any other failure to 3112
properly disburse settlement, closing, or escrow funds; 3113

(2) Failure to comply with any applicable written closing 3114
instructions, when agreed to by the title insurance agent. 3115

(C) The issuance of closing or settlement protection by a 3116
title insurance company pursuant to division (A) of this section 3117
is part of the business of title insurance for purposes of Chapter 3118
3953. of the Revised Code. 3119

(D) Except as provided in division (A) of this section, a 3120
title insurance company shall not offer or issue any coverage 3121
purporting to indemnify against a person's improper acts or 3122
omissions in connection with escrow, settlement, or closing 3123
services. 3124

(E) The superintendent of insurance may adopt rules in 3125
accordance with Chapter 119. of the Revised Code as the 3126
superintendent considers necessary to carry out the purposes of 3127

this section, including, but not limited to, rules that detail the 3128
specific language that must be included in the written document 3129
offering closing or settlement protection as provided for in 3130
division (A) of this section. 3131

Sec. 3953.33. (A) Every title insurance agent or agency that 3132
handles escrow, settlement, closing, or security deposit accounts 3133
shall have an annual independent review made of its escrow, 3134
settlement, closing, and security deposit accounts on a 3135
calendar-year basis within ninety days after the close of the 3136
previous fiscal year. The title insurance agent or agency shall 3137
provide proof of the annual review to each title insurance company 3138
that it represents. The superintendent of insurance shall 3139
promulgate rules under Chapter 119. of the Revised Code setting 3140
forth the minimum threshold level at which a review is required, 3141
the standards of the review, the minimum qualifications of the 3142
independent party conducting the review, and the form of the 3143
report that is required. The superintendent may also require title 3144
insurance agents or agencies to provide a copy of their annual 3145
review reports to the superintendent. The annual review required 3146
by this division does not apply to interest on lawyer's trust 3147
accounts established and maintained by an attorney pursuant to 3148
sections 4705.09 and 4705.10 of the Revised Code. 3149

(B) Title insurance agents and agencies shall allow the 3150
superintendent and each and every title insurer that they 3151
represent reasonable access to all of their escrow, settlement, 3152
closing, and security deposit accounts and any and all supporting 3153
account information in order to ascertain the safety and security 3154
of the funds held by the title insurance agent or agency. 3155

(C) Title insurance agents and agencies shall maintain 3156
sufficient records of their affairs, including their escrow 3157
operations and escrow trust accounts, so that the superintendent 3158

may adequately ensure that the title insurance agent or agency is 3159
in compliance of this chapter. Records kept pursuant to this 3160
section shall be kept for a period of not less than ten years 3161
following the transactions to which the records relate. The 3162
superintendent may prescribe the specific records and documents to 3163
be kept. 3164

Sec. 3953.35. (A) No title insurance agent shall do any of 3165
the following in connection with a mortgage loan of seventy-five 3166
thousand dollars or less: 3167

(1) Knowingly coerce or wrongfully instruct the consumer to 3168
enter into the loan; 3169

(2) Knowingly fail to disclose to the consumer that the 3170
consumer does not have to close on the loan; 3171

(3) Knowingly make a material misrepresentation to the 3172
consumer regarding the terms of the loan. 3173

(B) A violation of this section is deemed an unfair and 3174
deceptive act or practice in violation of section 1345.02 of the 3175
Revised Code. 3176

Sec. 4735.05. (A) The Ohio real estate commission is a part 3177
of the department of commerce for administrative purposes. The 3178
director of commerce is ex officio the executive officer of the 3179
commission, or the director may designate any employee of the 3180
department as superintendent of real estate and professional 3181
licensing to act as executive officer of the commission. 3182

The commission and the real estate appraiser board created 3183
pursuant to section 4763.02 of the Revised Code shall each submit 3184
to the director a list of three persons whom the commission and 3185
the board consider qualified to be superintendent within sixty 3186
days after the office of superintendent becomes vacant. The 3187
director shall appoint a superintendent from the lists submitted 3188

by the commission and the board, and the superintendent shall 3189
serve at the pleasure of the director. 3190

(B) The superintendent, except as otherwise provided, shall 3191
do all of the following in regard to this chapter: 3192

(1) Administer this chapter; 3193

(2) Issue all orders necessary to implement this chapter; 3194

(3) Investigate complaints concerning the violation of this 3195
chapter or the conduct of any licensee; 3196

(4) Establish and maintain an investigation and audit section 3197
to investigate complaints and conduct inspections, audits, and 3198
other inquiries as in the judgment of the superintendent are 3199
appropriate to enforce this chapter. The investigators or auditors 3200
have the right to review and audit the business records of 3201
licensees and continuing education course providers during normal 3202
business hours. 3203

(5) Appoint a hearing examiner for any proceeding involving 3204
disciplinary action under section 3123.47 or 4735.18 of the 3205
Revised Code; 3206

(6) Administer the real estate recovery fund. 3207

(C) The superintendent may do all of the following: 3208

(1) In connection with investigations and audits under 3209
division (B) of this section, subpoena witnesses as provided in 3210
section 4735.04 of the Revised Code; 3211

(2) Apply to the appropriate court to enjoin any violation of 3212
this chapter. Upon a showing by the superintendent that any person 3213
has violated or is about to violate any provision of this chapter, 3214
the court shall grant an injunction, restraining order, or other 3215
appropriate order. 3216

(3) Upon the death of a licensed broker or the revocation or 3217
suspension of the broker's license, if there is no other licensed 3218

broker within the business entity of the broker, appoint upon 3219
application by any interested party, or, in the case of a deceased 3220
broker, subject to the approval by the appropriate probate court, 3221
recommend the appointment of, an ancillary trustee who is 3222
qualified as determined by the superintendent to conclude the 3223
business transactions of the deceased, revoked, or suspended 3224
broker; 3225

(4) In conjunction with the enforcement of this chapter, when 3226
the superintendent of real estate has reasonable cause to believe 3227
that an applicant or licensee has committed a criminal offense, 3228
the superintendent of real estate may request the superintendent 3229
of the bureau of criminal identification and investigation to 3230
conduct a criminal records check of the applicant or licensee. The 3231
superintendent of the bureau of criminal identification and 3232
investigation shall obtain information from the federal bureau of 3233
investigation as part of the criminal records check of the 3234
applicant or licensee. The superintendent of real estate may 3235
assess the applicant or licensee a fee equal to the fee assessed 3236
for the criminal records check. 3237

(D) All information that is obtained by investigators and 3238
auditors performing investigations or conducting inspections, 3239
audits, and other inquiries pursuant to division (B)(4) of this 3240
section, from licensees, complainants, or other persons, and all 3241
reports, documents, and other work products that arise from that 3242
information and that are prepared by the investigators, auditors, 3243
or other personnel of the department, shall be held in confidence 3244
by the superintendent, the investigators and auditors, and other 3245
personnel of the department. Notwithstanding division (D) of 3246
section 2317.023 of the Revised Code, all information obtained by 3247
investigators or auditors from an informal mediation meeting held 3248
pursuant to section 4735.051 of the Revised Code, including but 3249
not limited to the agreement to mediate and the accommodation 3250

agreement, shall be held in confidence by the superintendent, 3251
investigators, auditors, and other personnel of the department. 3252

(E) This section does not prevent the division of real estate 3253
and professional licensing from releasing information relating to 3254
licensees to the superintendent of financial institutions for 3255
purposes relating to the administration of sections 1322.01 to 3256
1322.12 of the Revised Code, to the superintendent of insurance 3257
for purposes relating to the administration of Chapter 3953. of 3258
the Revised Code, to the attorney general, or to local law 3259
enforcement agencies and local prosecutors. Information released 3260
by the division pursuant to this section remains confidential. 3261

Sec. 4763.03. (A) In addition to any other duties imposed on 3262
the real estate appraiser board under this chapter, the board 3263
shall: 3264

(1) Adopt rules, in accordance with Chapter 119. of the 3265
Revised Code, in furtherance of this chapter, including, but not 3266
limited to, all of the following: 3267

(a) Defining, with respect to state-certified general real 3268
estate appraisers, state-certified residential real estate 3269
appraisers, and state-licensed residential real estate appraisers, 3270
the type of educational experience, appraisal experience, and 3271
other equivalent experience that satisfy the requirements of this 3272
chapter. The rules shall require that all appraisal experience 3273
performed after January 1, 1996, meet the uniform standards of 3274
professional practice established by the appraisal foundation. 3275

(b) Establishing the examination specifications for 3276
state-certified general real estate appraisers, state-certified 3277
residential real estate appraisers, and state-licensed residential 3278
real estate appraisers; 3279

(c) Relating to disciplinary proceedings conducted in 3280

accordance with section 4763.11 of the Revised Code, including 3281
rules governing the reinstatement of certificates, registrations, 3282
and licenses that have been suspended pursuant to those 3283
proceedings; 3284

(d) Identifying any additional information to be included on 3285
the forms specified in division (C) of section 4763.12 of the 3286
Revised Code, provided that the rules shall not require any less 3287
information than is required in that division; 3288

(e) Establishing the fees set forth in section 4763.09 of the 3289
Revised Code; 3290

(f) Establishing the amount of the assessment required by 3291
division (A)(2) of section 4763.05 of the Revised Code. The board 3292
annually shall determine the amount due from each applicant for an 3293
initial certificate, registration, and license in an amount that 3294
will maintain the real estate appraiser recovery fund at the level 3295
specified in division (A) of section 4763.16 of the Revised Code. 3296
The board may, if the fund falls below that amount, require 3297
current certificate holders, registrants, and licensees to pay an 3298
additional assessment. 3299

(g) Defining, with respect to state-registered real estate 3300
appraiser assistants, the educational and experience requirements 3301
of division (C)(1)(d) of section 4763.05 of the Revised Code; 3302

(h) Establishing a real estate appraiser assistant program 3303
for the registration of real estate appraiser assistants. 3304

(2) Provide or procure appropriate examination questions and 3305
answers for the examinations required by division (D) of section 3306
4763.05 of the Revised Code, and establish the criteria for 3307
successful completion of those examinations; 3308

(3) Periodically review the standards for preparation and 3309
reporting of real estate appraisals provided in this chapter and 3310
adopt rules explaining and interpreting those standards; 3311

(4) Hear appeals, pursuant to Chapter 119. of the Revised Code, from decisions and orders the superintendent of real estate issues pursuant to this chapter;	3312 3313 3314
(5) Request the initiation by the superintendent of investigations of violations of this chapter or the rules adopted pursuant thereto, as the board determines appropriate;	3315 3316 3317
(6) Determine the appropriate disciplinary actions to be taken against certificate holders, registrants, and licensees under this chapter as provided in section 4763.11 of the Revised Code.	3318 3319 3320 3321
(B) In addition to any other duties imposed on the superintendent of real estate under this chapter, the superintendent shall:	3322 3323 3324
(1) Prescribe the form and content of all applications required by this chapter;	3325 3326
(2) Receive applications for certifications, registrations, and licenses and renewal thereof under this chapter and establish the procedures for processing, approving, and disapproving those applications;	3327 3328 3329 3330
(3) Retain records and all application materials submitted to the superintendent;	3331 3332
(4) Establish the time and place for conducting the examinations required by division (D) of section 4763.05 of the Revised Code;	3333 3334 3335
(5) Issue certificates, registrations, and licenses and maintain a register of the names and addresses of all persons issued a certificate, registration, or license under this chapter;	3336 3337 3338
(6) Perform any other functions and duties, including the employment of staff, necessary to administer this chapter;	3339 3340
(7) Administer this chapter;	3341

(8) Issue all orders necessary to implement this chapter;	3342
(9) Investigate complaints, upon the superintendent's own	3343
motion or upon receipt of a complaint or upon a request of the	3344
board, concerning any violation of this chapter or the rules	3345
adopted pursuant thereto or the conduct of any person holding a	3346
certificate, registration, or license issued pursuant to this	3347
chapter;	3348
(10) Establish and maintain an investigation and audit	3349
section to investigate complaints and conduct inspections, audits,	3350
and other inquiries as in the judgment of the superintendent are	3351
appropriate to enforce this chapter. The investigators and	3352
auditors have the right to review and audit the business records	3353
of certificate holders, registrants, and licensees during normal	3354
business hours. The superintendent may utilize the investigators	3355
and auditors employed pursuant to division (B)(4) of section	3356
4735.05 of the Revised Code or currently licensed certificate	3357
holders or licensees to assist in performing the duties of this	3358
division.	3359
(11) Appoint a referee or examiner for any proceeding	3360
involving the revocation or suspension of a certificate,	3361
registration, or license under section 3123.47 or 4763.11 of the	3362
Revised Code;	3363
(12) Administer the real estate appraiser recovery fund;	3364
(13) Conduct the examinations required by division (D) of	3365
section 4763.05 of the Revised Code at least four times per year.	3366
(C) The superintendent may do all of the following:	3367
(1) In connection with investigations and audits under	3368
division (B) of this section, subpoena witnesses as provided in	3369
section 4763.04 of the Revised Code;	3370
(2) Apply to the appropriate court to enjoin any violation of	3371

this chapter. Upon a showing by the superintendent that any person 3372
has violated or is about to violate this chapter, the court shall 3373
grant an injunction, restraining order, or other appropriate 3374
relief, or any combination thereof. 3375

(D) All information that is obtained by investigators and 3376
auditors performing investigations or conducting inspections, 3377
audits, and other inquiries pursuant to division (B)(10) of this 3378
section, from certificate holders, registrants, licensees, 3379
complainants, or other persons, and all reports, documents, and 3380
other work products that arise from that information and that are 3381
prepared by the investigators, auditors, or other personnel of the 3382
department of commerce, shall be held in confidence by the 3383
superintendent, the investigators and auditors, and other 3384
personnel of the department. 3385

(E) This section does not prevent the division of real estate 3386
and professional licensing from releasing information relating to 3387
certificate holders, registrants, and licensees to the 3388
superintendent of financial institutions for purposes relating to 3389
the administration of sections 1322.01 to 1322.12 of the Revised 3390
Code, to the superintendent of insurance for purposes relating to 3391
the administration of Chapter 3953. of the Revised Code, to the 3392
attorney general, or to local law enforcement agencies and local 3393
prosecutors. Information released by the division pursuant to this 3394
section remains confidential. 3395

Sec. 4763.05. (A)(1)(a) A person shall make application for 3396
an initial state-certified general real estate appraiser 3397
certificate, an initial state-certified residential real estate 3398
appraiser certificate, an initial state-licensed residential real 3399
estate appraiser license, or an initial state-registered real 3400
estate appraiser assistant registration in writing to the 3401
superintendent of real estate on a form the superintendent 3402

prescribes. The application shall include the address of the 3403
applicant's principal place of business and all other addresses at 3404
which the applicant currently engages in the business of preparing 3405
real estate appraisals and the address of the applicant's current 3406
residence. The superintendent shall retain the applicant's current 3407
residence address in a separate record which shall not constitute 3408
a public record for purposes of section 149.03 of the Revised 3409
Code. The application shall indicate whether the applicant seeks 3410
certification as a general real estate appraiser or as a 3411
residential real estate appraiser, licensure as a residential real 3412
estate appraiser, or registration as a real estate appraiser 3413
assistant and be accompanied by the prescribed examination and 3414
certification, registration, or licensure fees set forth in 3415
section 4763.09 of the Revised Code. The application also shall 3416
include a fingerprint of the applicant; a pledge, signed by the 3417
applicant, that the applicant will comply with the standards set 3418
forth in this chapter; and a statement that the applicant 3419
understands the types of misconduct for which disciplinary 3420
proceedings may be initiated against the applicant pursuant to 3421
this chapter. 3422

(b) Upon the filing of an application and payment of any 3423
examination and certification, registration, or licensure fees, 3424
the superintendent of real estate shall request the superintendent 3425
of the bureau of criminal identification and investigation, or a 3426
vendor approved by the bureau, to conduct a criminal records check 3427
based on the applicant's fingerprints in accordance with division 3428
(A)(11) of section 109.572 of the Revised Code. Notwithstanding 3429
division (J) of section 121.08 of the Revised Code, the 3430
superintendent of real estate shall request that criminal record 3431
information from the federal bureau of investigation be obtained 3432
as part of the criminal records check. Any fee required under 3433
division (C)(3) of section 109.572 of the Revised Code shall be 3434
paid by the applicant. 3435

(2) For purposes of providing funding for the real estate appraiser recovery fund established by section 4763.16 of the Revised Code, the real estate appraiser board shall levy an assessment against each person issued an initial certificate, registration, or license and against current licensees, registrants, and certificate holders, as required by board rule. The assessment is in addition to the application and examination fees for initial applicants required by division (A)(1) of this section and the renewal fees required for current certificate holders, registrants, and licensees. The superintendent of real estate shall deposit the assessment into the state treasury to the credit of the real estate appraiser recovery fund. The assessment for initial certificate holders, registrants, and licensees shall be paid prior to the issuance of a certificate, registration, or license, and for current certificate holders, registrants, and licensees, at the time of renewal.

(B) An applicant for an initial general real estate appraiser certificate shall possess at least thirty months of experience in real estate appraisal, or any equivalent experience the board prescribes. An applicant for a residential real estate appraiser certificate or residential real estate appraiser license shall possess at least two years of experience in real estate appraisal, or any equivalent experience the board prescribes. In addition to any other information required by the board, the applicant shall furnish, under oath, a detailed listing of the appraisal reports or file memoranda for each year for which experience is claimed and, upon request of the superintendent or the board, shall make available for examination a sample of the appraisal reports prepared by the applicant in the course of the applicant's practice.

(C)(1) Except as provided in division (C)(2) of this section, an applicant for an initial certificate, registration, or license

shall be at least eighteen years of age, honest, truthful, and of 3468
good reputation and shall present satisfactory evidence to the 3469
superintendent of the following, as appropriate: 3470

(a) If the applicant is seeking a state-certified general 3471
real estate appraiser certificate, that the applicant has 3472
successfully completed at least one hundred sixty-five classroom 3473
hours of courses in subjects related to real estate appraisal, 3474
including at least one course devoted exclusively to federal, 3475
state, and municipal fair housing law, presented by a nationally 3476
recognized appraisal organization, an institution of higher 3477
education, a career school registered by the state board of career 3478
colleges and schools, a state or federal commission or agency, or 3479
any other organization that represents the interests of financial 3480
institutions or real estate brokers, appraisers, or agents and 3481
that provides appraisal education, plus fifteen classroom hours 3482
related to standards of professional practice and the provisions 3483
of this chapter; 3484

(b) If the applicant is seeking a state-certified residential 3485
real estate appraiser certificate, that the applicant has 3486
successfully completed at least one hundred five classroom hours 3487
of courses in subjects related to real estate appraisal, including 3488
at least one course devoted exclusively to federal, state, and 3489
municipal fair housing law, presented by a nationally recognized 3490
appraisal organization, an institution of higher education, a 3491
career school registered by the state board of career colleges and 3492
schools, or any other organization that represents the interests 3493
of financial institutions or real estate brokers, appraisers, or 3494
agents and that provides appraisal education, plus fifteen 3495
classroom hours related to standards of professional practice and 3496
the provisions of this chapter; 3497

(c) If the applicant is seeking a state-licensed residential 3498
real estate appraiser license, that the applicant has successfully 3499

completed at least seventy-five classroom hours of courses in 3500
subjects related to real estate appraisal, including at least one 3501
course devoted exclusively to federal, state, and municipal fair 3502
housing law, presented by a nationally recognized appraisal 3503
organization, an institution of higher education, a career school 3504
registered by the state board of career colleges and schools, a 3505
state or federal commission or agency, or any other organization 3506
that represents the interests of financial institutions or real 3507
estate brokers, appraisers, or agents and that provides appraisal 3508
education, plus fifteen classroom hours related to standards of 3509
professional practice and the provisions of this chapter; 3510

(d) If the applicant is seeking a state-registered real 3511
estate appraiser assistant registration, that the applicant has 3512
successfully completed at least seventy-five classroom hours of 3513
courses in subjects related to real estate appraisal, including at 3514
least one course devoted exclusively to federal, state, and 3515
municipal fair housing law, presented by a nationally recognized 3516
appraisal organization, an institution of higher education, a 3517
career school registered by the state board of career colleges and 3518
schools, or any other organization that represents the interests 3519
of financial institutions or real estate brokers, appraisers, or 3520
agents, and that provides appraisal education that included at 3521
least fifteen classroom hours of instruction related to standards 3522
of professional practice and the requirements of this chapter and 3523
the rules adopted under this chapter. 3524

(2) Each person who files an application for an initial 3525
certificate or license within one year of the date established by 3526
the board as the first date on which applications will be accepted 3527
under this section, which date shall be no later than September 1, 3528
1990, and who, at the time of filing that application, does not 3529
satisfy the educational requirements for the certification or 3530
licensure sought of either division (C)(1)(a) or (b) of this 3531

section is exempt from those educational requirements for the term 3532
of the initial certification or licensure. In applying for a 3533
renewal certificate or license pursuant to section 4763.06 of the 3534
Revised Code, a certificate holder or licensee who was exempted 3535
from the educational requirements of division (C)(1)(a) or (b) of 3536
this section when applying for the initial certificate or license 3537
shall present satisfactory evidence to the superintendent that the 3538
certificate holder or licensee has completed the educational 3539
requirements for the certification or licensure to be renewed of 3540
one of those divisions before the renewal certificate or license 3541
may be issued. 3542

(D) An applicant for an initial general real estate appraiser 3543
or residential real estate appraiser certificate or residential 3544
real estate appraiser license shall take and successfully complete 3545
a written examination in order to qualify for the certificate or 3546
license. The examination shall require the applicant to 3547
demonstrate all of the following: 3548

(1) Appropriate knowledge of technical terms commonly used in 3549
or related to real estate appraising, appraisal report writing, 3550
and the economic concepts applicable to real estate; 3551

(2) Understanding of the principles of land economics, real 3552
estate appraisal processes, and problems likely to be encountered 3553
in gathering, interpreting, and processing of data in carrying out 3554
appraisal disciplines; 3555

(3) Understanding of the standards for the development and 3556
communication of real estate appraisals as provided in this 3557
chapter and the rules adopted thereunder; 3558

(4) Knowledge of theories of depreciation, cost estimating, 3559
methods of capitalization, direct sales comparison, and the 3560
mathematics of real estate appraisal that are appropriate for the 3561
certification or licensure for which the applicant has applied; 3562

(5) Knowledge of other principles and procedures as 3563
appropriate for the certification or license; 3564

(6) Basic understanding of real estate law; 3565

(7) Understanding of the types of misconduct for which 3566
disciplinary proceedings may be initiated against a certificate 3567
holder and licensee. 3568

(E)(1) A nonresident, natural person of this state who has 3569
complied with this section may obtain a certificate, registration, 3570
or license. The board shall adopt rules relating to the 3571
certification, registration, and licensure of a nonresident 3572
applicant whose state of residence the board determines to have 3573
certification, registration, or licensure requirements that are 3574
substantially similar to those set forth in this chapter and the 3575
rules adopted thereunder. 3576

(2) The board shall recognize on a temporary basis a 3577
certification or license issued in another state and shall 3578
register on a temporary basis an appraiser who is certified or 3579
licensed in another state if all of the following apply: 3580

(a) The temporary registration is to perform an appraisal 3581
assignment that is part of a federally related transaction~~+~~. 3582

(b) The appraiser's business in this state is of a temporary 3583
nature~~+~~. 3584

(c) The appraiser registers with the board pursuant to this 3585
division. 3586

An appraiser who is certified or licensed in another state 3587
shall register with the board for temporary practice before 3588
performing an appraisal assignment in this state in connection 3589
with a federally related transaction. 3590

The board shall adopt rules relating to registration for the 3591
temporary recognition of certification and licensure of appraisers 3592

from another state. The registration for temporary recognition of 3593
certified or licensed appraisers from another state shall not 3594
authorize completion of more than one appraisal assignment in this 3595
state. The board shall not issue more than two registrations for 3596
temporary practice to any one applicant in any calendar year. 3597

(3) In addition to any other information required to be 3598
submitted with the nonresident applicant's or appraiser's 3599
application for a certificate, registration, license, or temporary 3600
recognition of a certificate or license, each nonresident 3601
applicant or appraiser shall submit a statement consenting to the 3602
service of process upon the nonresident applicant or appraiser by 3603
means of delivering that process to the secretary of state if, in 3604
an action against the applicant, certificate holder, registrant, 3605
or licensee arising from the applicant's, certificate holder's, 3606
registrant's, or licensee's activities as a certificate holder, 3607
registrant, or licensee, the plaintiff, in the exercise of due 3608
diligence, cannot effect personal service upon the applicant, 3609
certificate holder, registrant, or licensee. 3610

(F) The superintendent shall not issue a certificate, 3611
registration, or license to, or recognize on a temporary basis an 3612
appraiser from another state that is a corporation, partnership, 3613
or association. This prohibition shall not be construed to prevent 3614
a certificate holder or licensee from signing an appraisal report 3615
on behalf of a corporation, partnership, or association. 3616

(G) Every person licensed, registered, or certified under 3617
this chapter shall notify the superintendent, on a form provided 3618
by the superintendent, of a change in the address of the 3619
licensee's, registrant's, or certificate holder's principal place 3620
of business or residence within thirty days of the change. If a 3621
licensee's, registrant's, or certificate holder's license, 3622
registration, or certificate is revoked or not renewed, the 3623
licensee, registrant, or certificate holder immediately shall 3624

return the annual and any renewal certificate, registration, or 3625
license to the superintendent. 3626

(H)(1) The superintendent shall not issue a certificate, 3627
registration, or license to any person, or recognize on a 3628
temporary basis an appraiser from another state, who does not meet 3629
applicable minimum criteria for state certification, registration, 3630
or licensure prescribed by federal law or rule. 3631

(2) The superintendent shall not issue a general real estate 3632
appraiser certificate, residential real estate appraiser 3633
certificate, residential real estate appraiser license, or real 3634
estate appraiser assistant registration to any person who has been 3635
convicted of or pleaded guilty to any criminal offense involving 3636
theft, receiving stolen property, embezzlement, forgery, fraud, 3637
passing bad checks, money laundering, or drug trafficking, or any 3638
criminal offense involving money or securities, including a 3639
violation of an existing or former law of this state, any other 3640
state, or the United States that substantially is equivalent to 3641
such an offense. However, if the applicant has pleaded guilty to 3642
or been convicted of such an offense, the superintendent shall not 3643
consider the offense if the applicant has proven to the 3644
superintendent, by a preponderance of the evidence, that the 3645
applicant's activities and employment record since the conviction 3646
show that the applicant is honest, truthful, and of good 3647
reputation, and there is no basis in fact for believing that the 3648
applicant will commit such an offense again. 3649

Sec. 4763.06. (A) A person licensed, registered, or certified 3650
under this chapter may obtain a renewal certificate, registration, 3651
or license by filing a renewal application with and paying the 3652
renewal fee set forth in section 4763.09 of the Revised Code and 3653
any amount assessed pursuant to division (A)(2) of section 4763.05 3654
of the Revised Code to the superintendent of real estate. The 3655

renewal application shall include a statement, signed by the 3656
certificate holder, registrant, or licensee, that the certificate 3657
holder, registrant, or licensee has not, during the immediately 3658
preceding twelve-month period, been convicted of or pleaded guilty 3659
to any criminal offense described in division (H)(2) of section 3660
4763.05 of the Revised Code. The certificate holder, registrant, 3661
or licensee shall file the renewal application at least thirty 3662
days, but no earlier than one hundred twenty days, prior to 3663
expiration of the certificate holder's, registrant's, or 3664
licensee's current certificate, registration, or license. A 3665
certificate holder or licensee who applies for a renewal 3666
certificate or license who, pursuant to division (C)(2) of section 3667
4763.05 of the Revised Code, was exempted from the educational 3668
requirements of division (C)(1) of that section during the term of 3669
the initial certificate or license, as a condition of renewal, 3670
also shall present satisfactory evidence of having completed the 3671
appropriate educational requirements of either division (C)(1)(a) 3672
or (b) of that section since the effective date of the initial 3673
certificate or license. 3674

(B) A certificate holder, registrant, or licensee who fails 3675
to renew a certificate, registration, or license prior to its 3676
expiration is ineligible to obtain a renewal certificate, 3677
registration, or license and shall comply with section 4763.05 of 3678
the Revised Code in order to regain ~~his~~ certification or 3679
licensure, except that a certificate holder, registrant, or 3680
licensee may, within three months after the expiration of the 3681
certificate holder's, registrant's, or licensee's certificate, 3682
registration, or license, renew the certificate, registration, or 3683
license without having to comply with section 4763.05 of the 3684
Revised Code by payment of all fees for renewal and payment of the 3685
late filing fee set forth in section 4763.09 of the Revised Code. 3686
A certificate holder, registrant, or licensee who applies for late 3687
renewal of the certificate holder's, registrant's, or licensee's 3688

certificate, registration, or license may engage in all activities 3689
permitted by the certification, registration, or license being 3690
renewed for the three-month period following the certificate's, 3691
registration's, or license's normal expiration date. 3692

Sec. 4763.12. (A) A person licensed or certified under this 3693
chapter may be retained or employed to act as a disinterested 3694
third party in rendering an unbiased valuation or analysis of real 3695
estate or to provide specialized services to facilitate the client 3696
or employer's objectives. An appraisal or appraisal report 3697
rendered by a certificate holder or licensee shall comply with 3698
this chapter. A certified appraisal or certified appraisal report 3699
represents to the public that it satisfies the standards set forth 3700
in this chapter. 3701

(B) No certificate holder or licensee shall accept a fee for 3702
an appraisal assignment that is contingent, in whole or in part, 3703
upon the reporting of a predetermined estimate, analysis, or 3704
opinion or upon the opinion, conclusion, or valuation reached, or 3705
upon consequences resulting from the appraisal assignment. A 3706
certificate holder or licensee who enters into an agreement to 3707
provide specialized services may charge a fixed fee or a fee that 3708
is contingent upon the results achieved by the specialized 3709
services, provided that this fact is clearly stated in each oral 3710
report rendered pursuant to the agreement, and the existence of 3711
the contingent fee arrangement is clearly stated in a prominent 3712
place on each written report and in each letter of transmittal and 3713
certification statement made by the certificate holder or licensee 3714
within that report. 3715

(C) Every written report rendered by a certificate holder or 3716
licensee in conjunction with an appraisal assignment or 3717
specialized service performed shall include the following 3718
information: 3719

(1) The name of the certificate holder or licensee;	3720
(2) The class of certification or licensure held by and the	3721
certification or licensure number of the certificate holder or	3722
licensee;	3723
(3) Whether the appraisal or specialized service is performed	3724
within the scope of the certificate holder's or licensee's	3725
certification or licensure;	3726
(4) Whether the appraisal or specialized service is provided	3727
by a certificate holder or licensee as a disinterested and	3728
unbiased third party or as a person on an interested and biased	3729
basis or as an interested third party on a contingent fee basis;	3730
(5) The signature of the person preparing and reporting the	3731
appraisal or specialized service.	3732
If the certificate holder or licensee provides an oral real	3733
estate appraisal or specialized service, the certificate holder or	3734
licensee shall send, within seven days of providing the oral	3735
report, a form to the client containing the appropriate	3736
information specified in this division and the rules adopted	3737
pursuant thereto <u>to this division</u> .	3738
(D) Nothing in this chapter shall be construed as requiring a	3739
certificate holder or licensee to provide a client with a copy of	3740
any writing prepared in support of an oral appraisal report except	3741
as provided in division (C) of this section or as agreed to	3742
between the certificate holder or licensee and the certificate	3743
holder's or licensee's client.	3744
<u>(E) No person, directly or indirectly, shall knowingly</u>	3745
<u>compensate, instruct, induce, coerce, or intimidate, or attempt to</u>	3746
<u>compensate, instruct, induce, coerce, or intimidate, a certificate</u>	3747
<u>holder or licensee for the purpose of corrupting or improperly</u>	3748
<u>influencing the independent judgment of the certificate holder or</u>	3749
<u>licensee with respect to the value of the dwelling offered as</u>	3750

security for repayment of a mortgage loan. 3751

Sec. 4763.13. (A) In engaging in appraisal activities, a 3752
person certified, registered, or licensed under this chapter shall 3753
comply with the applicable standards prescribed by the board of 3754
governors of the federal reserve system, the federal deposit 3755
insurance corporation, the comptroller of the currency, the office 3756
of thrift supervision, the national credit union administration, 3757
and the resolution trust corporation in connection with federally 3758
related transactions under the jurisdiction of the applicable 3759
agency or instrumentality. A certificate holder, registrant, and 3760
licensee also shall comply with the uniform standards of 3761
professional appraisal practice, as adopted by the appraisal 3762
standards board of the appraisal foundation and such other 3763
standards adopted by the real estate appraiser board, to the 3764
extent that those standards do not conflict with applicable 3765
federal standards in connection with a particular federally 3766
related transaction. 3767

(B) The terms "state-licensed residential real estate 3768
appraiser," "state-certified residential real estate appraiser," 3769
"state-certified general real estate appraiser," and 3770
"state-registered real estate appraiser assistant" shall be used 3771
to refer only to those persons who have been issued the applicable 3772
certificate, registration, or license or renewal certificate, 3773
registration, or license pursuant to this chapter. None of these 3774
terms shall be used following or in connection with the name or 3775
signature of a partnership, corporation, or association or in a 3776
manner that could be interpreted as referring to a person other 3777
than the person to whom the certificate, registration, or license 3778
has been issued. No person shall fail to comply with this 3779
division. 3780

(C) No person, other than a certificate holder, a registrant, 3781

or a licensee, shall assume or use a title, designation, or 3782
abbreviation that is likely to create the impression that the 3783
person possesses certification, registration, or licensure under 3784
this chapter, provided that professional designations containing 3785
the term "certified appraiser" and being used on or before July 3786
26, 1989, shall not be construed as being misleading under this 3787
division. No person other than a person certified or licensed 3788
under this chapter shall describe or refer to an appraisal or 3789
other evaluation of real estate located in this state as being 3790
certified. 3791

(D) The terms "state-certified or state-licensed real estate 3792
appraisal report," "state-certified or state-licensed appraisal 3793
report," or "state-certified or state-licensed appraisal" shall be 3794
used to refer only to those real estate appraisals conducted by a 3795
certificate holder or licensee as a disinterested and unbiased 3796
third party provided that the certificate holder or licensee 3797
provides certification with the appraisal and provided further 3798
that if a licensee is providing the appraisal, such terms shall 3799
only be used if the licensee is acting within the scope of the 3800
licensee's license. No person shall fail to comply with this 3801
division. 3802

(E) Nothing in this chapter shall preclude a partnership, 3803
corporation, or association which employs or retains the services 3804
of a certificate holder or licensee to advertise that the 3805
partnership, corporation, or association offers state-certified or 3806
state-licensed appraisals through a certificate holder or licensee 3807
if the advertisement clearly states such fact in accordance with 3808
guidelines for such advertisements established by rule of the real 3809
estate appraiser board. 3810

(F) Nothing Except as otherwise provided in section 4763.19 3811
of the Revised Code, nothing in this chapter shall preclude a 3812
person who is not licensed or certified under this chapter from 3813

appraising real estate for compensation. 3814

Sec. 4763.19. (A) Subject to division (B) of this section, no 3815
person shall perform a real estate appraisal for a mortgage loan 3816
if the person is not licensed or certified under this chapter to 3817
do the appraisal. 3818

(B) Division (A) of this section does not apply to a lender 3819
using a market analysis or price opinion, an internal valuation 3820
analysis, or an automated valuation model or report based on an 3821
automated valuation model, and any person providing that report to 3822
the lender, in performing a valuation for purposes of a loan 3823
application, as long as the lender does both of the following: 3824

(1) Gives the consumer loan applicant a copy of any written 3825
market analysis or price opinion or valuation report based on an 3826
automated valuation model; 3827

(2) Includes a disclaimer on the consumer's copy specifying 3828
that the valuation used for purposes of the application was 3829
obtained from a market analysis or price opinion or automated 3830
valuation model report and not from a person licensed or certified 3831
under this chapter. 3832

Sec. 4763.99. (A) Whoever violates division (B) of section 3833
4763.12 or, division (B), (C), or (D) of section 4763.13, or 3834
section 4763.19 of the Revised Code is guilty of a misdemeanor of 3835
the first degree. 3836

(B) Whoever violates division (E) of section 4763.12 of the 3837
Revised Code is guilty of a felony of the fifth degree. 3838

Section 2. That existing sections 109.572, 1321.57, 1322.02, 3839
1322.03, 1322.031, 1322.04, 1322.041, 1322.051, 1322.06, 1322.061, 3840
1322.062, 1322.07, 1322.10, 1322.11, 1322.99, 1343.011, 1345.01, 3841
1345.02, 1345.03, 1345.05, 1345.07, 1345.09, 1349.25, 1349.27, 3842

1349.31, 3953.23, 4735.05, 4763.03, 4763.05, 4763.06, 4763.12, 3843
4763.13, and 4763.99 of the Revised Code are hereby repealed. 3844

Section 3. (A) Sections 1 and 2 of this act shall take effect 3845
January 1, 2007. 3846

(B) It is the intent of the General Assembly that the 3847
Attorney General, upon this act's effective date, begin the 3848
rulemaking process for purposes of division (B) of section 3849
1345.031 of the Revised Code, as enacted by this act. Rules so 3850
adopted by the Attorney General shall not, however, take effect 3851
until January 1, 2007. 3852