

As Passed by the House

126th General Assembly

Regular Session

2005-2006

Am. Sub. S. B. No. 185

Senators Padgett, Schuring, Roberts, Carey, Amstutz, Armbruster, Brady,

Dann, Fedor, Fingerhut, Grendell, Hagan, Harris, Jacobson, Miller, R.,

Prentiss, Spada, Zurz, Mumper, Clancy

Representatives Coley, Smith, G., Wagoner, Hagan, Schneider, Evans, C.,

Patton, T., White, Smith, S., Stewart, J., Stewart, D., Allen, Healy, Koziura,

Bocchieri, 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

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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, 1349.25, 1349.31, 3953.23, 4
4735.05, 4763.03, 4763.05, 4763.06, 4763.12, 5
4763.13, and 4763.99 and to enact sections 6
1321.541, 1322.063, 1322.064, 1322.074, 1322.075, 7
1322.081, 1349.38, 1349.39, 1349.40, 1349.41, 8
1349.42, 1349.43, 1349.44, 1349.71, 1349.72, 9
3953.30, 3953.32, 3953.33, and 4763.19 of the 10
Revised Code to establish several new consumer 11
protections relative to certain mortgage loans; to 12
generally prohibit the appraisal of real estate 13

for a mortgage loan without state certification or 14
licensure; to require that a national criminal 15
background check be conducted on all applicants 16
for a mortgage broker certificate of registration, 17
loan officer license, or real estate appraiser 18
certificate or license; to establish the consumer 19
education finance board; to modify the Mortgage 20
Broker/Loan Officer Law with respect to disclosure 21
of information, fiduciary duties, prohibited acts, 22
record keeping, pre-licensure broker education, 23
pre-licensure examination, and registration of 24
convicted felons; to require title insurance 25
agents to notify purchasers of the availability of 26
owner's title insurance when issuing lender's 27
title insurance in conjunction with a residential 28
mortgage loan and to explain what owner's title 29
insurance covers; to require title insurance 30
agents to maintain errors and omissions insurance; 31
to authorize title insurers to issue settlement 32
protection; and to make other changes relative to 33
mortgage lending. 34

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

Section 1. That sections 109.572, 1321.57, 1322.02, 1322.03, 35
1322.031, 1322.04, 1322.041, 1322.051, 1322.06, 1322.061, 36
1322.062, 1322.07, 1322.10, 1322.11, 1322.99, 1343.011, 1349.25, 37
1349.31, 3953.23, 4735.05, 4763.03, 4763.05, 4763.06, 4763.12, 38
4763.13, and 4763.99 be amended and sections 1321.541, 1322.063, 39
1322.064, 1322.074, 1322.075, 1322.081, 1349.38, 1349.39, 1349.40, 40
1349.41, 1349.42, 1349.43, 1349.44, 1349.71, 1349.72, 3953.30, 41
3953.32, 3953.33, and 4763.19 of the Revised Code be enacted to 42

read as follows: 43

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 44
section 121.08, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013, or 45
5153.111 of the Revised Code, a completed form prescribed pursuant 46
to division (C)(1) of this section, and a set of fingerprint 47
impressions obtained in the manner described in division (C)(2) of 48
this section, the superintendent of the bureau of criminal 49
identification and investigation shall conduct a criminal records 50
check in the manner described in division (B) of this section to 51
determine whether any information exists that indicates that the 52
person who is the subject of the request previously has been 53
convicted of or pleaded guilty to any of the following: 54

(a) A violation of section 2903.01, 2903.02, 2903.03, 55
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 56
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 57
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 58
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 59
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 60
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 61
2925.06, or 3716.11 of the Revised Code, felonious sexual 62
penetration in violation of former section 2907.12 of the Revised 63
Code, a violation of section 2905.04 of the Revised Code as it 64
existed prior to July 1, 1996, a violation of section 2919.23 of 65
the Revised Code that would have been a violation of section 66
2905.04 of the Revised Code as it existed prior to July 1, 1996, 67
had the violation been committed prior to that date, or a 68
violation of section 2925.11 of the Revised Code that is not a 69
minor drug possession offense; 70

(b) A violation of an existing or former law of this state, 71
any other state, or the United States that is substantially 72
equivalent to any of the offenses listed in division (A)(1)(a) of 73

this section.

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(2) On receipt of a request pursuant to section 5123.081 of the Revised Code with respect to an applicant for employment in any position with the department of mental retardation and developmental disabilities, pursuant to section 5126.28 of the Revised Code with respect to an applicant for employment in any position with a county board of mental retardation and developmental disabilities, or pursuant to section 5126.281 of the Revised Code with respect to an applicant for employment in a direct services position with an entity contracting with a county board for employment, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any of the following:

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

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

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(3) On receipt of a request pursuant to section 173.41, 106
3712.09, 3721.121, or 3722.151 of the Revised Code, a completed 107
form prescribed pursuant to division (C)(1) of this section, and a 108
set of fingerprint impressions obtained in the manner described in 109
division (C)(2) of this section, the superintendent of the bureau 110
of criminal identification and investigation shall conduct a 111
criminal records check with respect to any person who has applied 112
for employment in a position that involves providing direct care 113
to an older adult. The superintendent shall conduct the criminal 114
records check in the manner described in division (B) of this 115
section to determine whether any information exists that indicates 116
that the person who is the subject of the request previously has 117
been convicted of or pleaded guilty to any of the following: 118

(a) A violation of section 2903.01, 2903.02, 2903.03, 119
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 120
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 121
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 122
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 123
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 124
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 125
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 126
2925.22, 2925.23, or 3716.11 of the Revised Code; 127

(b) An existing or former law of this state, any other state, 128
or the United States that is substantially equivalent to any of 129
the offenses listed in division (A)(3)(a) of this section. 130

(4) On receipt of a request pursuant to section 3701.881 of 131
the Revised Code with respect to an applicant for employment with 132
a home health agency as a person responsible for the care, 133
custody, or control of a child, a completed form prescribed 134
pursuant to division (C)(1) of this section, and a set of 135
fingerprint impressions obtained in the manner described in 136
division (C)(2) of this section, the superintendent of the bureau 137

of criminal identification and investigation shall conduct a 138
criminal records check. The superintendent shall conduct the 139
criminal records check in the manner described in division (B) of 140
this section to determine whether any information exists that 141
indicates that the person who is the subject of the request 142
previously has been convicted of or pleaded guilty to any of the 143
following: 144

(a) A violation of section 2903.01, 2903.02, 2903.03, 145
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 146
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 147
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 148
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 149
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 150
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 151
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 152
violation of section 2925.11 of the Revised Code that is not a 153
minor drug possession offense; 154

(b) An existing or former law of this state, any other state, 155
or the United States that is substantially equivalent to any of 156
the offenses listed in division (A)(4)(a) of this section. 157

(5) On receipt of a request pursuant to section 5111.95 or 158
5111.96 of the Revised Code with respect to an applicant for 159
employment with a waiver agency participating in a department of 160
job and family services administered home and community-based 161
waiver program or an independent provider participating in a 162
department administered home and community-based waiver program in 163
a position that involves providing home and community-based waiver 164
services to consumers with disabilities, a completed form 165
prescribed pursuant to division (C)(1) of this section, and a set 166
of fingerprint impressions obtained in the manner described in 167
division (C)(2) of this section, the superintendent of the bureau 168
of criminal identification and investigation shall conduct a 169

criminal records check. The superintendent shall conduct the
criminal records check in the manner described in division (B) of
this section to determine whether any information exists that
indicates that the person who is the subject of the request
previously has been convicted of or pleaded guilty to any of the
following:

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

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

(6) On receipt of a request pursuant to section 3701.881 of
the Revised Code with respect to an applicant for employment with
a home health agency in a position that involves providing direct
care to an older adult, a completed form prescribed pursuant to
division (C)(1) of this section, and a set of fingerprint
impressions obtained in the manner described in division (C)(2) of

this section, the superintendent of the bureau of criminal
identification and investigation shall conduct a criminal records
check. The superintendent shall conduct the criminal records check
in the manner described in division (B) of this section to
determine whether any information exists that indicates that the
person who is the subject of the request previously has been
convicted of or pleaded guilty to any of the following:

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

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

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

(8) On a request pursuant to section 2151.86 of the Revised
Code, a completed form prescribed pursuant to division (C)(1) of
this section, and a set of fingerprint impressions obtained in the
manner described in division (C)(2) of this section, the

superintendent of the bureau of criminal identification and 233
investigation shall conduct a criminal records check in the manner 234
described in division (B) of this section to determine whether any 235
information exists that indicates that the person who is the 236
subject of the request previously has been convicted of or pleaded 237
guilty to any of the following: 238

(a) A violation of section 2903.01, 2903.02, 2903.03, 239
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 240
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 241
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 242
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 243
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 244
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 245
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a 246
violation of section 2905.04 of the Revised Code as it existed 247
prior to July 1, 1996, a violation of section 2919.23 of the 248
Revised Code that would have been a violation of section 2905.04 249
of the Revised Code as it existed prior to July 1, 1996, had the 250
violation been committed prior to that date, a violation of 251
section 2925.11 of the Revised Code that is not a minor drug 252
possession offense, or felonious sexual penetration in violation 253
of former section 2907.12 of the Revised Code; 254

(b) A violation of an existing or former law of this state, 255
any other state, or the United States that is substantially 256
equivalent to any of the offenses listed in division (A)(8)(a) of 257
this section. 258

(9) When conducting a criminal records check on a request 259
pursuant to section 5104.013 of the Revised Code for a person who 260
is an owner, licensee, or administrator of a child day-care center 261
or type A family day-care home or an authorized provider of a 262
certified type B family day-care home, the superintendent, in 263
addition to the determination made under division (A)(1) of this 264

section, shall determine whether any information exists that 265
indicates that the person has been convicted of or pleaded guilty 266
to any of the following: 267

(a) A violation of section 2913.02, 2913.03, 2913.04, 268
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 269
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 270
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2921.11, 271
2921.13, or 2923.01 of the Revised Code, a violation of section 272
2923.02 or 2923.03 of the Revised Code that relates to a crime 273
specified in this division or division (A)(1)(a) of this section, 274
or a second violation of section 4511.19 of the Revised Code 275
within five years of the date of application for licensure or 276
certification. 277

(b) A violation of an existing or former law of this state, 278
any other state, or the United States that is substantially 279
equivalent to any of the offenses or violations described in 280
division (A)(9)(a) of this section. 281

(10) On receipt of a request for a criminal records check 282
from an individual pursuant to section 4749.03 or 4749.06 of the 283
Revised Code, accompanied by a completed copy of the form 284
prescribed in division (C)(1) of this section and a set of 285
fingerprint impressions obtained in a manner described in division 286
(C)(2) of this section, the superintendent of the bureau of 287
criminal identification and investigation shall conduct a criminal 288
records check in the manner described in division (B) of this 289
section to determine whether any information exists indicating 290
that the person who is the subject of the request has been 291
convicted of or pleaded guilty to a felony in this state or in any 292
other state. If the individual indicates that a firearm will be 293
carried in the course of business, the superintendent shall 294
require information from the federal bureau of investigation as 295
described in division (B)(2) of this section. The superintendent 296

shall report the findings of the criminal records check and any
information the federal bureau of investigation provides to the
director of public safety.

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(11) On receipt of a request pursuant to section 1322.03,
1322.031, or 4763.05 of the Revised Code, a completed form
prescribed pursuant to division (C)(1) of this section, and a set
of fingerprint impressions obtained in the manner described in
division (C)(2) of this section, the superintendent of the bureau
of criminal identification and investigation shall conduct a
criminal records check with respect to any person who has applied
for a license, permit, or certification from the department of
commerce or a division in the department. The superintendent shall
conduct the criminal records check in the manner described in
division (B) of this section to determine whether any information
exists that indicates that the person who is the subject of the
request previously has been convicted of or pleaded guilty to any
of the following: a violation of section 2913.02, 2913.11,
2913.31, 2913.51, or 2925.03 of the Revised Code; any other
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, as set forth in Chapters 2909., 2911., 2913.,
2915., 2921., 2923., and 2925. of the Revised Code; or any
existing or former law of this state, any other state, or the
United States that is substantially equivalent to those offenses.

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(12) Not later than thirty days after the date the
superintendent receives the request, completed form, and
fingerprint impressions, the superintendent shall send the person,
board, or entity that made the request any information, other than
information the dissemination of which is prohibited by federal
law, the superintendent determines exists with respect to the
person who is the subject of the request that indicates that the

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person previously has been convicted of or pleaded guilty to any 329
offense listed or described in division (A)(1), (2), (3), (4), 330
(5), (6), (7), (8), (9), ~~or (10)~~, or (11) of this section, as 331
appropriate. The superintendent shall send the person, board, or 332
entity that made the request a copy of the list of offenses 333
specified in division (A)(1), (2), (3), (4), (5), (6), (7), (8), 334
(9), ~~or (10)~~, or (11) of this section, as appropriate. If the 335
request was made under section 3701.881 of the Revised Code with 336
regard to an applicant who may be both responsible for the care, 337
custody, or control of a child and involved in providing direct 338
care to an older adult, the superintendent shall provide a list of 339
the offenses specified in divisions (A)(4) and (6) of this 340
section. 341

(B) The superintendent shall conduct any criminal records 342
check requested under section 121.08, 173.41, 1322.03, 1322.031, 343
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 344
3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 345
5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 346
Code as follows: 347

(1) The superintendent shall review or cause to be reviewed 348
any relevant information gathered and compiled by the bureau under 349
division (A) of section 109.57 of the Revised Code that relates to 350
the person who is the subject of the request, including any 351
relevant information contained in records that have been sealed 352
under section 2953.32 of the Revised Code; 353

(2) If the request received by the superintendent asks for 354
information from the federal bureau of investigation, the 355
superintendent shall request from the federal bureau of 356
investigation any information it has with respect to the person 357
who is the subject of the request and shall review or cause to be 358
reviewed any information the superintendent receives from that 359
bureau. 360

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

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is required by section 121.08, 173.41, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is required by section 121.08, 173.41, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any person for whom a records check is required by any of those sections shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) Subject to division (D) of this section, the

superintendent shall prescribe and charge a reasonable fee for 393
providing a criminal records check requested under section 121.08, 394
173.41, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 395
3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 396
5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, 397
or 5153.111 of the Revised Code. The person making a criminal 398
records request under section 121.08, 173.41, 1322.03, 1322.031, 399
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 400
3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 401
5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 402
Code shall pay the fee prescribed pursuant to this division. A 403
person making a request under section 3701.881 of the Revised Code 404
for a criminal records check for an applicant who may be both 405
responsible for the care, custody, or control of a child and 406
involved in providing direct care to an older adult shall pay one 407
fee for the request. 408

(4) The superintendent of the bureau of criminal 409
identification and investigation may prescribe methods of 410
forwarding fingerprint impressions and information necessary to 411
conduct a criminal records check, which methods shall include, but 412
not be limited to, an electronic method. 413

(D) A determination whether any information exists that 414
indicates that a person previously has been convicted of or 415
pleaded guilty to any offense listed or described in division 416
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 417
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7)~~(a) or (b)~~, 418
(A)(8)(a) or (b), ~~or~~ (A)(9)(a) or (b), or (A)(11) of this section 419
that is made by the superintendent with respect to information 420
considered in a criminal records check in accordance with this 421
section is valid for the person who is the subject of the criminal 422
records check for a period of one year from the date upon which 423
the superintendent makes the determination. During the period in 424

which the determination in regard to a person is valid, if another 425
request under this section is made for a criminal records check 426
for that person, the superintendent shall provide the information 427
that is the basis for the superintendent's initial determination 428
at a lower fee than the fee prescribed for the initial criminal 429
records check. 430

(E) As used in this section: 431

(1) "Criminal records check" means any criminal records check 432
conducted by the superintendent of the bureau of criminal 433
identification and investigation in accordance with division (B) 434
of this section. 435

(2) "Home and community-based waiver services" and "waiver 436
agency" have the same meanings as in section 5111.95 of the 437
Revised Code. 438

(3) "Independent provider" has the same meaning as in section 439
5111.96 of the Revised Code. 440

(4) "Minor drug possession offense" has the same meaning as 441
in section 2925.01 of the Revised Code. 442

(5) "Older adult" means a person age sixty or older. 443

Sec. 1321.541. (A) The attorney general may directly bring an 444
action to enjoin a violation of sections 1321.51 to 1321.60 of the 445
Revised Code with the same rights, privileges, and powers as those 446
described in section 1345.06 of the Revised Code. The prosecuting 447
attorney of the county in which the action may be brought may 448
bring an action to enjoin a violation of sections 1321.51 to 449
1321.60 of the Revised Code only if the prosecuting attorney first 450
presents any evidence of the violation to the attorney general 451
and, within a reasonable period of time, the attorney general has 452
not agreed to bring the action. 453

(B)(1) The prosecuting attorney of the county in which an 454

alleged offense may be prosecuted may initiate criminal 455
proceedings under sections 1321.51 to 1321.60 of the Revised Code. 456

(2) In order to initiate criminal proceedings under sections 457
1321.51 to 1321.60 of the Revised Code, the attorney general shall 458
first present any evidence of criminal violations to the 459
prosecuting attorney of the county in which the alleged offense 460
may be prosecuted. If, within a reasonable period of time, the 461
prosecuting attorney has not agreed to prosecute the violations, 462
the attorney general may proceed in the prosecution with all the 463
rights, privileges, and powers conferred by law on prosecuting 464
attorneys, including the power to appear before grand juries and 465
to interrogate witnesses before such grand juries. 466

(C) These powers of the attorney general shall be in addition 467
to any other applicable powers of the attorney general. 468

Sec. 1321.57. (A) Notwithstanding any other provisions of the 469
Revised Code, a registrant may contract for and receive interest, 470
calculated according to the actuarial method, at a rate or rates 471
not exceeding twenty-one per cent per year on the unpaid principal 472
balances of the loan. Loans may be interest-bearing or 473
precomputed. 474

(B) For purposes of computation of time on interest-bearing 475
and precomputed loans, including, but not limited to, the 476
calculation of interest, a month is considered one-twelfth of a 477
year, and a day is considered one three hundred sixty-fifth of a 478
year when calculation is made for a fraction of a month. A year is 479
as defined in section 1.44 of the Revised Code. A month is that 480
period described in section 1.45 of the Revised Code. 481
Alternatively, a registrant may consider a day as one three 482
hundred sixtieth of a year and each month as having thirty days. 483

(C) With respect to interest-bearing loans: 484

(1)(a) Interest shall be computed on unpaid principal 485
balances outstanding from time to time, for the time outstanding. 486

(b) As an alternative to the method of computing interest set 487
forth in division (C)(1)(a) of this section, a registrant may 488
charge and collect interest for the first installment period based 489
on elapsed time from the date of the loan to the first scheduled 490
payment due date, and for each succeeding installment period from 491
the scheduled payment due date to the next scheduled payment due 492
date, regardless of the date or dates the payments are actually 493
made. 494

(c) Whether a registrant computes interest pursuant to 495
division (C)(1)(a) or (b) of this section, each payment shall be 496
applied first to unpaid charges, then to interest, and the 497
remainder to the unpaid principal balance. However, if the amount 498
of the payment is insufficient to pay the accumulated interest, 499
the unpaid interest continues to accumulate to be paid from the 500
proceeds of subsequent payments and is not added to the principal 501
balance. 502

(2) Interest shall not be compounded, collected, or paid in 503
advance. However, both of the following apply: 504

(a) Interest may be charged to extend the first monthly 505
installment period by not more than fifteen days, and the interest 506
charged for the extension may be added to the principal amount of 507
the loan. 508

(b) If part or all of the consideration for a new loan 509
contract is the unpaid principal balance of a prior loan, the 510
principal amount payable under the new loan contract may include 511
any unpaid interest that has accrued. The resulting loan contract 512
shall be deemed a new and separate loan transaction for purposes 513
of this section. The unpaid principal balance of a precomputed 514
loan is the balance due after refund or credit of unearned 515

interest as provided in division (D)(3) of this section. 516

(D) With respect to precomputed loans: 517

(1) Loans shall be repayable in monthly installments of 518
principal and interest combined, except that the first installment 519
period may exceed one month by not more than fifteen days, and the 520
first installment payment amount may be larger than the remaining 521
payments by the amount of interest charged for the extra days; and 522
provided further that monthly installment payment dates may be 523
omitted to accommodate borrowers with seasonal income. 524

(2) Payments may be applied to the combined total of 525
principal and precomputed interest until maturity of the loan. A 526
registrant may charge interest after the original or deferred 527
maturity of a precomputed loan at the rate specified in division 528
(A) of this section on all unpaid principal balances for the time 529
outstanding. 530

(3) When any loan contract is paid in full by cash, renewal, 531
refinancing, or a new loan, one month or more before the final 532
installment due date, the registrant shall refund, or credit the 533
borrower with, the total of the applicable charges for all fully 534
unexpired installment periods, as originally scheduled or as 535
deferred, that follow the day of prepayment. If the prepayment is 536
made other than on a scheduled installment due date, the nearest 537
scheduled installment due date shall be used in such computation. 538
If the prepayment occurs prior to the first installment due date, 539
the registrant may retain one-thirtieth of the applicable charge 540
for a first installment period of one month for each day from date 541
of loan to date of prepayment, and shall refund, or credit the 542
borrower with, the balance of the total interest contracted for. 543
If the maturity of the loan is accelerated for any reason and 544
judgment is entered, the registrant shall credit the borrower with 545
the same refund as if prepayment in full had been made on the date 546

the judgment is entered.

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(4) If the parties agree in writing, either in the loan contract or in a subsequent agreement, to a deferment of wholly unpaid installments, a registrant may grant a deferment and may collect a deferment charge as provided in this section. A deferment postpones the scheduled due date of the earliest unpaid installment and all subsequent installments as originally scheduled, or as previously deferred, for a period equal to the deferment period. The deferment period is that period during which no installment is scheduled to be paid by reason of the deferment. The deferment charge for a one-month period may not exceed the applicable charge for the installment period immediately following the due date of the last undeferred installment. A proportionate charge may be made for deferment for periods of more or less than one month. A deferment charge is earned pro rata during the deferment period and is fully earned on the last day of the deferment period. If a loan is prepaid in full during a deferment period, the registrant shall make, or credit to the borrower, a refund of the unearned deferment charge in addition to any other refund or credit made for prepayment of the loan in full.

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(E) A registrant, at the request of the borrower, may obtain, on one or more borrowers, credit life insurance, credit accident and health insurance, and unemployment insurance. The premium or identifiable charge for the insurance may be included in the principal amount of the loan and may not exceed the premium rate filed by the insurer with the superintendent of insurance and not disapproved by the superintendent. If a registrant obtains the insurance at the request of the borrower, the borrower shall have the right to cancel the insurance for a period of twenty-five days after the loan is made. If the borrower chooses to cancel the insurance, the borrower shall give the registrant written notice of this choice and shall return all of the policies or

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certificates of insurance or notices of proposed insurance to the 579
registrant during such period, and the full premium or 580
identifiable charge for the insurance shall be refunded to the 581
borrower by the registrant. If the borrower requests, in the 582
notice to cancel the insurance, that this refund be applied to 583
reduce the balance of a precomputed loan, the registrant shall 584
credit the amount of the refund plus the amount of interest 585
applicable to the refund to the loan balance. 586

If the registrant obtains the insurance at the request of the 587
borrower, the registrant shall not charge or collect interest on 588
any insured amount that remains unpaid after the insured 589
borrower's date of death. 590

(F) A registrant may require the borrower to provide 591
insurance or a loss payable endorsement covering reasonable risks 592
of loss, damage, and destruction of property used as security for 593
the loan and with the consent of the borrower such insurance may 594
cover property other than that which is security for the loan. The 595
amount and term of required property insurance shall be reasonable 596
in relation to the amount and term of the loan contract and the 597
type and value of the security, and the insurance shall be 598
procured in accordance with the insurance laws of this state. The 599
purchase of this insurance through the registrant or an agent or 600
broker designated by the registrant shall not be a condition 601
precedent to the granting of the loan. If the borrower purchases 602
the insurance from or through the registrant or from another 603
source, the premium may be included in the principal amount of the 604
loan. 605

(G) On loans secured by an interest in real estate, all of 606
the following apply: 607

(1) A registrant may charge and receive up to two points, and 608
a prepayment penalty not in excess of one per cent of the original 609

principal amount of the loan. Points may be paid by the borrower
at the time of the loan or may be included in the principal amount
of the loan. On a refinancing, a registrant may not charge under
division (G)(1) of this section either of the following:

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

(b) A prepayment penalty.

(2) As an alternative to the prepayment penalty described in
division (G)(1) of this section, a registrant may contract for,
charge, and receive the prepayment penalty described in this
~~division (G)(2) of this section~~ for the prepayment of a loan prior
to ~~three~~ two years after the date the loan contract is executed.
This prepayment penalty shall not exceed ~~three~~ two per cent of the
original principal amount of the loan if the loan is paid in full
prior to one year after the date the loan contract is executed.
The penalty shall not exceed ~~two~~ one per cent of the original
principal amount of the loan if the loan is paid in full at any
time from one year, but prior to two years, after the date the
loan contract is executed. ~~The penalty shall not exceed one per
cent of the original principal amount of the loan if the loan is
paid in full at any time from two years, but prior to three years,
after the date the loan contract is executed.~~ A registrant shall
not charge or receive a prepayment penalty under division (G)(2)
of this section if any of the following applies:

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

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

(c) The loan is paid in full with the proceeds of an

insurance claim against an insurance policy that insures the life 641
of the borrower or an insurance policy that covers loss, damage, 642
or destruction of the real estate that secures the loan. 643

(3) Division (G) of this section is not a limitation on 644
discount points or other charges for purposes of section 501(b)(4) 645
of the "Depository Institutions Deregulation and Monetary Control 646
Act of 1980," 94 Stat. 161, 12 U.S.C.A. 1735f-7 note. 647

(H)(1) In addition to the interest and charges provided for 648
by this section, no further or other amount, whether in the form 649
of broker fees, placement fees, or any other fees whatsoever, 650
shall be charged or received by the registrant, except costs and 651
disbursements in connection with any suit to collect a loan or any 652
lawful activity to realize on a security interest or mortgage 653
after default, including reasonable attorney fees incurred by the 654
registrant as a result of the suit or activity and to which the 655
registrant becomes entitled by law, and except the following 656
additional charges which may be included in the principal amount 657
of the loan or collected at any time after the loan is made: 658

(a) The amounts of fees authorized by law to record, file, or 659
release security interests and mortgages on a loan; 660

(b) With respect to a loan secured by an interest in real 661
estate, the following closing costs, if they are bona fide, 662
reasonable in amount, and not for the purpose of circumvention or 663
evasion of this section: 664

(i) Fees or premiums for title examination, abstract of 665
title, title insurance, surveys, title endorsements, title 666
binders, title commitments, home inspections, or pest inspections; 667
settlement or closing costs; courier fees; and any federally 668
mandated flood plain certification fee; 669

(ii) If not paid to the registrant, an employee of the 670
registrant, or a person related to the registrant, fees for 671

preparation of a mortgage, settlement statement, or other 672
documents, fees for notarizing mortgages and other documents, 673
appraisal fees, and fees for any federally mandated inspection of 674
home improvement work financed by a second mortgage loan; 675

(c) Fees for credit investigations not exceeding ten dollars. 676

(2) Division (H)(1) of this section does not limit the rights 677
of registrants to engage in other transactions with borrowers, 678
provided the transactions are not a condition of the loan. 679

(I) If the loan contract or security instrument contains 680
covenants by the borrower to perform certain duties pertaining to 681
insuring or preserving security and the registrant pursuant to the 682
loan contract or security instrument pays for performance of the 683
duties on behalf of the borrower, the registrant may add the 684
amounts paid to the unpaid principal balance of the loan or 685
collect them separately. A charge for interest may be made for 686
sums advanced not exceeding the rate of interest permitted by 687
division (A) of this section. Within a reasonable time after 688
advancing a sum, the registrant shall notify the borrower in 689
writing of the amount advanced, any interest charged with respect 690
to the amount advanced, any revised payment schedule, and shall 691
include a brief description of the reason for the advance. 692

(J)(1) In addition to points authorized under division (G) of 693
this section, a registrant may charge and receive the following: 694

(a) With respect to secured loans: if the principal amount of 695
the loan is less than five hundred dollars, loan origination 696
charges not exceeding fifteen dollars; if the principal amount of 697
the loan is at least five hundred dollars but less than one 698
thousand dollars, loan origination charges not exceeding thirty 699
dollars; if the principal amount of the loan is at least one 700
thousand dollars but less than two thousand dollars, loan 701
origination charges not exceeding one hundred dollars; if the 702

principal amount of the loan is at least two thousand dollars but 703
less than five thousand dollars, loan origination charges not 704
exceeding two hundred dollars; and if the principal amount of the 705
loan is at least five thousand dollars, loan origination charges 706
not exceeding the greater of two hundred fifty dollars or one per 707
cent of the principal amount of the loan. 708

(b) With respect to unsecured loans: if the principal amount 709
of the loan is less than five hundred dollars, loan origination 710
charges not exceeding fifteen dollars; if the principal amount of 711
the loan is at least five hundred dollars but less than one 712
thousand dollars, loan origination charges not exceeding thirty 713
dollars; if the principal amount of the loan is at least one 714
thousand dollars but less than five thousand dollars, loan 715
origination charges not exceeding one hundred dollars; and if the 716
principal amount of the loan is at least five thousand dollars, 717
loan origination charges not exceeding the greater of two hundred 718
fifty dollars or one per cent of the principal amount of the loan. 719

(2) If a refinancing occurs within ninety days after the date 720
of the refinanced loan, a registrant may not impose loan 721
origination charges on the portion of the principal amount that is 722
applied to the unpaid principal amount of the refinanced loan. 723

(3) Loan origination charges may be paid by the borrower at 724
the time of the loan or may be included in the principal amount of 725
the loan. 726

(K) A registrant may charge and receive check collection 727
charges not greater than twenty dollars plus any amount passed on 728
from other financial institutions for each check, negotiable order 729
of withdrawal, share draft, or other negotiable instrument 730
returned or dishonored for any reason. 731

(L) If the loan contract so provides, a registrant may 732
collect a default charge on any installment not paid in full 733

within ten days after its due date. For this purpose, all 734
installments are considered paid in the order in which they become 735
due. Any amounts applied to an outstanding loan balance as a 736
result of voluntary release of a security interest, sale of 737
security on the loan, or cancellation of insurance shall be 738
considered payments on the loan, unless the parties otherwise 739
agree in writing at the time the amounts are applied. The amount 740
of the default charge shall not exceed the greater of five per 741
cent of the scheduled installment or fifteen dollars. 742

Sec. 1322.02. (A)(1) No person, on the person's own behalf or 743
on behalf of any other person, shall act as a mortgage broker 744
without first having obtained a certificate of registration from 745
the superintendent of financial institutions for every office to 746
be maintained by the person for the transaction of business as a 747
mortgage broker in this state. A registrant shall maintain an 748
office location in this state for the transaction of business as a 749
mortgage broker in this state. 750

(2) No person shall act or hold that person's self out as a 751
mortgage broker under the authority or name of a registrant or 752
person exempt from sections 1322.01 to 1322.12 of the Revised Code 753
without first having obtained a certificate of registration from 754
the superintendent for every office to be maintained by the person 755
for the transaction of business as a mortgage broker in this 756
state. 757

(B) No person, on the person's own behalf or on behalf of any 758
other person, shall act as a loan officer without first having 759
obtained a license from the superintendent. A loan officer shall 760
not be employed by more than one mortgage broker at any one time. 761

(C)(1) The following persons are exempt from sections 1322.01 762
to 1322.12 of the Revised Code only with respect to business 763
engaged in or authorized by their charter, license, authority, 764

approval, or certificate, or as otherwise authorized by division 765
(C)(1)(g) of this section: 766

(a) A bank, savings bank, savings and loan association, ~~or~~ 767
credit union, or credit union service organization organized under 768
the laws of this state, another state, or the United States, or a 769
subsidiary ~~or~~ affiliate of a bank, savings bank, savings and loan 770
association, or credit union~~+~~, or credit union service 771
organization. As used in this division, "affiliate" means an 772
entity that controls, is controlled by, or is under common control 773
with, a bank, savings bank, savings and loan association, credit 774
union, or credit union service organization and is subject to 775
examination, supervision, and regulation, including with respect 776
to the affiliate's compliance with applicable consumer protection 777
requirements, by the board of governors of the federal reserve 778
system, the comptroller of the currency, the office of thrift 779
supervision, the federal deposit insurance corporation, or the 780
national credit union administration. 781

(b) A budget and debt counseling service, as defined in 782
division (D) of section 2716.03 of the Revised Code, provided that 783
the service is a nonprofit organization exempt from taxation under 784
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 785
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 786
in compliance with Chapter 4710. of the Revised Code; 787

(c) A consumer reporting agency that is in substantial 788
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 789
U.S.C.A. 1681a, as amended; 790

(d) Any political subdivision, or any governmental or other 791
public entity, corporation, or agency, in or of the United States 792
or any state of the United States; 793

(e) A college or university, or controlled entity of a 794
college or university, as defined in section 1713.05 of the 795

Revised Code; 796

(f) A person registered under sections 1321.51 to 1321.60 of 797
the Revised Code, provided that not more than five per cent of the 798
person's mortgage loans constitute table-funding mortgage loans or 799
warehouse-lending mortgage loans. Division (C)(1)(f) of this 800
section does not include any person that is also registered or 801
licensed under sections 1322.01 to 1322.12 of the Revised Code. 802

(g) A mortgage banker. For purposes of division (C)(1)(g) of 803
this section, "mortgage banker" means any person that makes, 804
services, buys, or sells mortgage loans, that underwrites the 805
loans, and that meets at least one of the following criteria: 806

(i) The person 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. Division (C) (1) (g) (i) of this section 810
includes a person that has been directly approved by the United 811
States department of housing and urban development as a 812
nonsupervised mortgagee with participation in the direct 813
endorsement program and that makes loans in excess of the 814
applicable loan limit set by the federal national mortgage 815
association, provided that the loans in all respects, except loan 816
amounts, comply with the underwriting and documentation 817
requirements of the United States department of housing and urban 818
development. Division (C)(1)(g)(i) of this section does not 819
include a mortgagee approved as a loan correspondent. 820

(ii) The person has been directly approved by the federal 821
national mortgage association as a seller/servicer. Division (C) 822
(1) (g) (ii) of this section includes a person that has been 823
directly approved by the federal national mortgage association as 824
a seller/servicer and that makes loans in excess of the applicable 825
loan limit set by the federal national mortgage association, 826

provided that the loans in all respects, except loan amounts, 827
comply with the underwriting and documentation requirements of the 828
federal national mortgage association. 829

(iii) The person has been directly approved by the federal 830
home loan mortgage corporation as a seller/servicer. Division (C) 831
(1) (g) (iii) of this section includes a person that has been 832
directly approved by the federal home loan mortgage corporation as 833
a seller/servicer and that makes loans in excess of the applicable 834
loan limit set by the federal home loan mortgage corporation, 835
provided that the loans in all respects, except loan amounts, 836
comply with the underwriting and documentation requirements of the 837
federal home loan mortgage corporation. 838

(iv) The person has been directly approved by the United 839
States department of veterans affairs as a nonsupervised automatic 840
lender. Division (C)(1)(g)(iv) of this section does not include a 841
person directly approved by the United States department of 842
veterans affairs as a nonsupervised lender, an agent of a 843
nonsupervised automatic lender, or an agent of a nonsupervised 844
lender. 845

(h) A person created solely for the purpose of securitizing 846
loans secured by an interest in real estate, provided the person 847
does not service the loans. For purposes of division (C)(1)(h) of 848
this section, "securitizing" means the packaging and sale of 849
mortgage loans as a unit for sale as investment securities, but 850
only to the extent of those activities. 851

(2) Any individual who is employed by a person exempt from 852
sections 1322.01 to 1322.12 of the Revised Code is also exempt 853
from those sections to the extent the individual is acting within 854
the scope of the individual's employment and within the scope of 855
the exempt person's charter, license, authority, approval, or 856
certificate. 857

Sec. 1322.03. (A) An application for a certificate of 858
registration as a mortgage broker shall be in writing, under oath, 859
and in the form prescribed by the superintendent of financial 860
institutions. The application shall be accompanied by a 861
nonrefundable application fee of three hundred fifty dollars for 862
each location of an office to be maintained by the applicant in 863
accordance with division (A) of section 1322.02 of the Revised 864
Code; however, an applicant that is registered under sections 865
1321.51 to 1321.60 of the Revised Code shall not be required to 866
pay an application fee. The application shall provide all of the 867
following: 868

(1) The location or locations where the business is to be 869
transacted and whether any location is a residence. If any 870
location where the business is to be transacted is a residence, 871
the application shall be accompanied by a certified copy of a 872
zoning permit authorizing the use of the residence for commercial 873
purposes, or shall be accompanied by a written opinion or other 874
document issued by the county or political subdivision where the 875
residence is located certifying that the use of the residence to 876
transact business as a mortgage broker is not prohibited by the 877
county or political subdivision. The application also shall be 878
accompanied by a photograph of each location at which the business 879
will be transacted. 880

(2)(a) In the case of a sole proprietor, the name and address 881
of the sole proprietor; 882

(b) In the case of a partnership, the name and address of 883
each partner; 884

(c) In the case of a corporation, the name and address of 885
each shareholder owning five per cent or more of the corporation; 886

(d) In the case of any other entity, the name and address of 887

any person that owns five per cent or more of the entity that will
transact business as a mortgage broker.

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

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(4) Evidence that the sole proprietor or the person designated on the application pursuant to division (A)(3) of this section, as applicable, possesses at least three years of experience in the mortgage and lending field, which experience may include employment with or as a mortgage broker or with a financial institution, mortgage lending institution, or other lending institution, or possesses at least three years of other experience related specifically to the business of mortgage loans that the superintendent determines meets the requirements of division (A)(4) of this section;

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(5) Evidence that the sole proprietor or the person designated on the application pursuant to division (A)(3) of this section, as applicable, meets the qualifying education requirements of section 1322.031 of the Revised Code or possesses other post-secondary education related specifically to the business of mortgage loans that the superintendent determines meets the requirements of division (A)(4) of section 1322.031 of the Revised Code. Division (A)(5) of this section does not apply to any applicant who holds a valid loan officer license or is an applicant under division (A)(5) of this section prior to January 1, 2007.

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If the superintendent requires as proof a statement as to whether the applicant has successfully completed the requirements

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of division (A)(4) of section 1322.031 of the Revised Code in lieu 919
of transcripts, the applicant shall maintain the transcripts 920
substantiating successful completion for a period of five years 921
for inspection by the superintendent at the superintendent's 922
request. 923

(6) Evidence of compliance with the surety bond requirements 924
of section 1322.05 of the Revised Code and with sections 1322.01 925
to 1322.12 of the Revised Code; 926

~~(6)~~(7) In the case of a foreign business entity, evidence 927
that it maintains a license or registration pursuant to Chapter 928
1703., 1705., 1775., 1777., 1782., or 1783. of the Revised Code to 929
transact business in this state; 930

~~(7)~~(8) A statement as to whether the applicant or, to the 931
best of the applicant's knowledge, any shareholder, member, 932
partner, operations manager, or employee of the applicant has been 933
convicted of or pleaded guilty to any criminal offense involving 934
theft, receiving stolen property, embezzlement, forgery, fraud, 935
passing bad checks, money laundering, or drug trafficking, or any 936
criminal offense involving money or securities; 937

~~(8)~~(9) A statement as to whether the applicant or, to the 938
best of the applicant's knowledge, any shareholder, member, 939
partner, operations manager, or employee of the applicant has been 940
subject to any adverse judgment for conversion, embezzlement, 941
misappropriation of funds, fraud, misfeasance or malfeasance, or 942
breach of fiduciary duty; 943

~~(9)~~(10) Evidence that the applicant's operations manager has 944
successfully completed the examination required under division (A) 945
of section 1322.051 of the Revised Code; 946

~~(10)~~(11) Any further information that the superintendent 947
requires. 948

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

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

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

(3) If, in order to issue a certificate of registration to an applicant, additional investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed three hundred fifty dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

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

(D) If an application for a certificate of registration does 980
not contain all of the information required under division (A) of 981
this section, and if that information is not submitted to the 982
superintendent within ninety days after the superintendent 983
requests the information in writing, the superintendent may 984
consider the application withdrawn. 985

(E) A certificate of registration, ~~or~~ and the authority 986
granted under ~~such a~~ that certificate, is not transferable or 987
assignable and cannot be franchised by contract or any other 988
means. 989

(F) The superintendent shall not grant a certificate of 990
registration to any applicant who has received a felony or 991
misdemeanor conviction of theft. 992

(G) The registration requirements of this chapter apply to 993
any person acting as a mortgage broker, and no person is exempt 994
from the requirements of this chapter on the basis of prior work 995
or employment as a mortgage broker. 996

Sec. 1322.031. (A) An application for a license as a loan 997
officer shall be in writing, under oath, and in the form 998
prescribed by the superintendent of financial institutions. The 999
application shall be accompanied by a nonrefundable application 1000
fee of one hundred dollars and shall provide all of the following: 1001

(1) The name and address of the applicant; 1002

(2) A statement as to whether the applicant has been 1003
convicted of or pleaded guilty to any criminal offense involving 1004
theft, receiving stolen property, embezzlement, forgery, fraud, 1005
passing bad checks, money laundering, or drug trafficking, or any 1006
criminal offense involving money or securities; 1007

(3) A statement as to whether the applicant has been subject 1008
to an adverse judgment for conversion, embezzlement, 1009

misappropriation of funds, fraud, misfeasance or malfeasance, or
breach of fiduciary duty;

(4) For loan officer applications submitted on or after
January 1, 2007, proof, as determined by the superintendent, that
the applicant has successfully completed educational programs
approved by the superintendent, within the preceding ten years,
that include all of the following:

(a) Eight hours of classroom instruction in real estate
finance and residential lending that includes the subjects of
annual percentage rate calculations, "Real Estate Settlement
Procedures Act," 88 Stat. 1724 (1974), 12 U.S.C. 2601 et seq.,
mortgage lending programs, the Ohio mortgage banking act, and the
Ohio mortgage loan act.

(b) Eight hours of classroom instruction that includes the
subjects of Ohio real estate law, municipal, state, and federal
civil rights law, new case law on foreclosure, residential
mortgage lending, and methods of eliminating the effects of
predatory and unsound lending practices. If feasible, the
classroom instruction in this section shall be taught by a member
of the faculty of an accredited law school. The requirements of
this division do not apply to an applicant who is admitted to
practice before the supreme court.

(c) Four hours of classroom instruction in real estate
appraisal that includes the subjects of the uniform standards of
professional appraisal practice;

(d) Four hours of classroom instruction in ethics that
includes fiduciary duties, confidentiality, and consumer
counseling;

(5) Division (A)(4) of this section does not apply to any
applicant who holds a valid loan officer license issued prior to
January 1, 2007.

(6) If the superintendent requires as proof a statement as to whether the applicant has successfully completed the requirements of division (A)(4) of this section in lieu of transcripts, the applicant shall maintain the transcripts substantiating successful completion for a period of five years for inspection by the superintendent at the superintendent's request;

(7) Any further information that the superintendent requires.

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

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

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

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

applicant is required to pay. 1072

(C) ~~All~~ The superintendent shall pay all funds advanced and 1073
application and renewal fees and penalties ~~paid to the~~ 1074
superintendent ~~under~~ receives pursuant to this section and section 1075
1322.041 of the Revised Code ~~shall be paid by the superintendent~~ 1076
to the treasurer of state to the credit of the consumer finance 1077
fund created in section 1321.21 of the Revised Code. 1078

(D) If an application for a license does not contain all of 1079
the information required under division (A) of this section, and 1080
if that information is not submitted to the superintendent within 1081
ninety days after the superintendent requests the information in 1082
writing, the superintendent may consider the application 1083
withdrawn. 1084

(E)(1) The business of a loan officer shall principally be 1085
transacted at an office of the employing mortgage broker, which 1086
office is registered in accordance with division (A) of section 1087
1322.02 of the Revised Code. Each original license shall be 1088
deposited with and maintained by the employing mortgage broker at 1089
the mortgage broker's main office. A copy of the license shall be 1090
maintained and displayed at the office where the loan officer 1091
principally transacts business. 1092

(2) If a loan officer's employment is terminated, the 1093
mortgage broker shall return the original license to the 1094
superintendent within five business days after the termination. 1095
The licensee may request the transfer of the license to another 1096
mortgage broker by submitting a relocation application, along with 1097
a fifteen dollar fee, to the superintendent or may request the 1098
superintendent in writing to hold the license in escrow for a 1099
period not to exceed one year. Any licensee whose license is held 1100
in escrow shall cease activity as a loan officer. 1101

A mortgage broker may employ a loan officer on a temporary 1102

basis pending the transfer of the loan officer's license to the 1103
mortgage broker, if the mortgage broker receives written 1104
confirmation from the superintendent that the loan officer is 1105
licensed under sections 1322.01 to 1322.12 of the Revised Code. 1106

(F) A license, or the authority granted under ~~such a~~ that 1107
license, is not assignable and cannot be franchised by contract or 1108
any other means. 1109

Sec. 1322.04. (A) Upon the conclusion of the investigation 1110
required under division (B) of section 1322.03 of the Revised 1111
Code, the superintendent of financial institutions shall issue a 1112
certificate of registration to the applicant if the superintendent 1113
finds that the following conditions are met: 1114

(1) Except as otherwise provided in division (A) of section 1115
1322.03 of the ~~Revised~~ Revised Code, the application is accompanied 1116
by the application fee. If a check or other draft instrument is 1117
returned to the superintendent for insufficient funds, the 1118
superintendent shall notify the registrant by certified mail, 1119
return receipt requested, that the certificate of registration 1120
issued in reliance on the check or other draft instrument will be 1121
canceled unless the registrant, within thirty days after receipt 1122
of the notice, submits the application fee and a 1123
one-hundred-dollar penalty to the superintendent. If the 1124
registrant does not submit the application fee and penalty within 1125
that time period, or if any check or other draft instrument used 1126
to pay the fee or penalty is returned to the superintendent for 1127
insufficient funds, the certificate of registration shall be 1128
canceled immediately without a hearing, and the registrant shall 1129
cease activity as a mortgage broker. 1130

(2) If the application is for a location that is a residence, 1131
that the applicant has obtained a valid zoning permit authorizing 1132
the use of the residence for commercial purposes, or has obtained 1133

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

(3) The sole proprietor or the person designated on the application pursuant to division (A)(3) of section 1322.03 of the Revised Code, as applicable, meets the experience requirements provided in division (A)(4) of section 1322.03 of the Revised Code.

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

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

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

(7) Neither the applicant nor any shareholder, member, partner, operations manager, or employee of the applicant has pleaded guilty to or been convicted of any criminal offense described in division (A)~~(7)~~(8) of section 1322.03 of the Revised Code, or any violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to a criminal offense described in that division. However, if the applicant or any of those other persons has pleaded guilty to or been convicted of such an offense, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the conviction show that the applicant or other

person is honest, truthful, and of good reputation, and there is 1165
no basis in fact for believing that the applicant or other person 1166
will commit such an offense again. 1167

(8) Neither the applicant nor any shareholder, member, 1168
partner, operations manager, or employee of the applicant has been 1169
subject to any adverse judgment for conversion, embezzlement, 1170
misappropriation of funds, fraud, misfeasance or malfeasance, or 1171
breach of fiduciary duty, or, if the applicant or any of those 1172
other persons has been subject to such a judgment, the applicant 1173
has proven to the superintendent, by a preponderance of the 1174
evidence, that the applicant's or other person's activities and 1175
employment record since the judgment show that the applicant or 1176
other person is honest, truthful, and of good reputation, and 1177
there is no basis in fact for believing that the applicant or 1178
other person will be subject to such a judgment again. 1179

(9) The applicant's operations manager successfully completed 1180
the examination required under division (A) of section 1322.051 of 1181
the Revised Code. 1182

(10) The applicant's financial responsibility, experience, 1183
character, and general fitness command the confidence of the 1184
public and warrant the belief that the business will be operated 1185
honestly and fairly in compliance with the purposes of sections 1186
1322.01 to 1322.12 of the Revised Code. 1187

For purposes of determining whether an applicant that is a 1188
partnership, corporation, or other business entity or association 1189
has met the conditions set forth in divisions (A)(7), (A)(8), and 1190
(A)(10) of this section, the superintendent shall determine which 1191
partners, shareholders, or persons named in the application 1192
pursuant to division (A)(2) of section 1322.03 of the Revised Code 1193
must meet the conditions set forth in divisions (A)(7), (A)(8), 1194
and (A)(10) of this section. This determination shall be based on 1195
the extent and nature of the partner's, shareholder's, or person's 1196

ownership interest in the partnership, corporation, or other 1197
business entity or association that is the applicant. 1198

(B) The certificate of registration issued pursuant to 1199
division (A) of this section may be renewed annually on or before 1200
the thirtieth day of April if the superintendent finds that all of 1201
the following conditions are met: 1202

(1) The renewal application is accompanied by a nonrefundable 1203
renewal fee of three hundred fifty dollars for each location of an 1204
office to be maintained by the applicant in accordance with 1205
division (A) of section 1322.02 of the Revised Code; however, an 1206
applicant that is registered under sections 1321.51 to 1321.60 of 1207
the Revised Code shall not be required to pay a renewal fee. If a 1208
check or other draft instrument is returned to the superintendent 1209
for insufficient funds, the superintendent shall notify the 1210
registrant by certified mail, return receipt requested, that the 1211
certificate of registration renewed in reliance on the check or 1212
other draft instrument will be canceled unless the registrant, 1213
within thirty days after receipt of the notice, submits the 1214
renewal fee and a one-hundred-dollar penalty to the 1215
superintendent. If the registrant does not submit the renewal fee 1216
and penalty within that time period, or if any check or other 1217
draft instrument used to pay the fee or penalty is returned to the 1218
superintendent for insufficient funds, the certificate of 1219
registration shall be canceled immediately without a hearing and 1220
the registrant shall cease activity as a mortgage broker. 1221

(2) On and after January 1, 2003, the operations manager 1222
designated under division (A)(3) of section 1322.03 of the Revised 1223
Code has completed, during the immediately preceding calendar 1224
year, at least six hours of continuing education as required under 1225
section 1322.052 of the Revised Code. 1226

(3) The applicant meets the conditions set forth in divisions 1227

(A)(2) to (10) of this section.	1228
(4) The applicant's certificate of registration is not subject to an order of suspension or revocation by the superintendent.	1229 1230 1231
(C)(1) Subject to division (C)(2) of this section, if a renewal fee is received by the superintendent after the thirtieth day of April, the certificate of registration shall not be considered renewed, and the applicant shall cease activity as a mortgage broker and apply for a certificate of registration as a mortgage broker.	1232 1233 1234 1235 1236 1237
(2) Division (C)(1) of this section shall not apply if the applicant, no later than the thirty-first day of May, submits the renewal fee and a one-hundred-dollar penalty to the superintendent.	1238 1239 1240 1241
(D) If the person designated as the operations manager pursuant to division (A)(3) of section 1322.03 of the Revised Code is no longer the operations manager, the registrant shall do all of the following:	1242 1243 1244 1245
(1) Designate another person as the operations manager;	1246
(2) Within ten days after the designation described in division (D)(1) of this section, notify the superintendent in writing of the designation;	1247 1248 1249
(3) Submit any additional information that the superintendent requires to establish that the newly designated operations manager complies with the experience requirements set forth in division (A)(4) of section 1322.03 of the Revised Code.	1250 1251 1252 1253
Sec. 1322.041. (A) Upon the conclusion of the investigation required under division (B) of section 1322.031 of the Revised Code, the superintendent of financial institutions shall issue a loan officer license to the applicant if the superintendent finds	1254 1255 1256 1257

that the following conditions are met: 1258

(1) The application is accompanied by the application fee. If 1259
a check or other draft instrument is returned to the 1260
superintendent for insufficient funds, the superintendent shall 1261
notify the licensee by certified mail, return receipt requested, 1262
that the license issued in reliance on the check or other draft 1263
instrument will be canceled unless the licensee, within thirty 1264
days after receipt of the notice, submits the application fee and 1265
a one-hundred-dollar penalty to the superintendent. If the 1266
licensee does not submit the application fee and penalty within 1267
that time period, or if any check or other draft instrument used 1268
to pay the fee or penalty is returned to the superintendent for 1269
insufficient funds, the license shall be canceled immediately 1270
without a hearing, and the licensee shall cease activity as a loan 1271
officer. 1272

(2) The applicant complies with sections 1322.01 to 1322.12 1273
of the Revised Code. 1274

(3) The applicant has not been convicted of or pleaded guilty 1275
to any criminal offense described in division (A)(2) of section 1276
1322.031 of the Revised Code, ~~or~~ and the applicant has not pleaded 1277
guilty to or been convicted of a violation of an existing or 1278
former law of this state, any other state, or the United States 1279
that substantially is equivalent to a criminal offense described 1280
in that division. However, if the applicant has been convicted of 1281
or pleaded guilty to such an offense, the superintendent shall not 1282
consider the offense if the applicant has proven to the 1283
superintendent, by a preponderance of the evidence, that the 1284
applicant's activities and employment record since the conviction 1285
show that the applicant is honest, truthful, and of good 1286
reputation, and there is no basis in fact for believing that the 1287
applicant will commit such an offense again. 1288

(4) The applicant has not been subject to an adverse judgment 1289

for conversion, embezzlement, misappropriation of funds, fraud, 1290
misfeasance or malfeasance, or breach of fiduciary duty, or, if 1291
the applicant has been subject to such a judgment, the applicant 1292
has proven to the superintendent, by a preponderance of the 1293
evidence, that the applicant's activities and employment record 1294
since the judgment show that the applicant is honest, truthful, 1295
and of good reputation, and there is no basis in fact for 1296
believing that the applicant will be subject to such a judgment 1297
again. 1298

(5) The applicant successfully completed the examination 1299
required under division (B) of section 1322.051 of the Revised 1300
Code. 1301

(6) The applicant's character and general fitness command the 1302
confidence of the public and warrant the belief that the business 1303
will be operated honestly and fairly in compliance with the 1304
purposes of sections 1322.01 to 1322.12 of the Revised Code. 1305

(B) The license issued under division (A) of this section may 1306
be renewed annually on or before the thirtieth day of April if the 1307
superintendent finds that all of the following conditions are met: 1308

(1) The renewal application is accompanied by a nonrefundable 1309
renewal fee of one hundred dollars. If a check or other draft 1310
instrument is returned to the superintendent for insufficient 1311
funds, the superintendent shall notify the licensee by certified 1312
mail, return receipt requested, that the license renewed in 1313
reliance on the check or other draft instrument will be canceled 1314
unless the licensee, within thirty days after receipt of the 1315
notice, submits the renewal fee and a one-hundred-dollar penalty 1316
to the superintendent. If the licensee does not submit the renewal 1317
fee and penalty within that time period, or if any check or other 1318
draft instrument used to pay the fee or penalty is returned to the 1319
superintendent for insufficient funds, the license shall be 1320

canceled immediately without a hearing, and the licensee shall
cease activity as a loan officer.

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

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

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

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

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

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

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

Sec. 1322.06. (A) As often as the superintendent of financial 1350
institutions considers it necessary, the superintendent may 1351
examine the registrant's records pertaining to business transacted 1352
pursuant to sections 1322.01 to 1322.12 of the Revised Code. 1353
1354

(B) A registrant shall maintain records pertaining to 1355
business transacted pursuant to sections 1322.01 to 1322.12 of the 1356
Revised Code, including copies of all mortgage loan origination 1357
disclosure statements prepared in accordance with section 1322.062 1358
of the Revised Code, for four years. No registrant shall fail to 1359
comply with this division. 1360

Sec. 1322.061. (A)(1) The following information is ~~privileged~~ 1361
~~and~~ confidential: 1362

(a) Examination information, and any information leading to 1363
or arising from an examination; 1364

(b) Investigation information, and any information arising 1365
from or leading to an investigation. 1366

(2) The information described in division (A)(1) of this 1367
section shall remain ~~privileged and~~ confidential for all purposes 1368
except when it is necessary for the superintendent of financial 1369
institutions to take official action regarding the affairs of a 1370
registrant or licensee, or in connection with criminal 1371
proceedings. This information may also be introduced into evidence 1372
or disclosed when and in the manner authorized by section 1181.25 1373
of the Revised Code. 1374

(B) All application information, except social security 1375
numbers, employer identification numbers, financial account 1376
numbers, the identity of the institution where financial accounts 1377
are maintained, personal financial information, fingerprint cards 1378
and the information contained on such cards, and criminal 1379

background information, is a public record as defined in section 1380
149.43 of the Revised Code. 1381

(C) This section does not prevent the division of financial 1382
institutions from releasing to or exchanging with other financial 1383
institution regulatory authorities information relating to 1384
registrants and licensees. For this purpose, a "financial 1385
institution regulatory authority" includes a regulator of a 1386
business activity in which a registrant or licensee is engaged, or 1387
has applied to engage in, to the extent that the regulator has 1388
jurisdiction over a registrant or licensee engaged in that 1389
business activity. A registrant or licensee is engaged in a 1390
business activity, and a regulator of that business activity has 1391
jurisdiction over the registrant or licensee, whether the 1392
registrant or licensee conducts the activity directly or a 1393
subsidiary or affiliate of the registrant or licensee conducts the 1394
activity. 1395

(D) This section does not prevent the division from releasing 1396
information relating to registrants and licensees to the attorney 1397
general ~~for purposes relating to the attorney general's~~ 1398
~~administration of Chapter 1345. of the Revised Code, to the~~ 1399
superintendent of real estate and professional licensing for 1400
purposes relating to the administration of Chapters 4735. and 1401
4763. of the Revised Code, to the superintendent of insurance for 1402
purposes relating to the administration of Chapter 3953. of the 1403
Revised Code, or to local law enforcement agencies and local 1404
prosecutors. Information the division releases ~~to the attorney~~ 1405
~~general pursuant to this section remains privileged and~~ 1406
~~confidential, and the attorney general may not disclose the~~ 1407
~~information or introduce the information into evidence unless the~~ 1408
~~superintendent authorizes the disclosure or introduction into~~ 1409
~~evidence in connection with the attorney general's administration~~ 1410
~~of Chapter 1345. of the Revised Code.~~ 1411

Sec. 1322.062. (A)(1) Within three business days after taking 1412
an application for a loan from a buyer, a registrant shall deliver 1413
to the buyer a mortgage loan origination disclosure statement that 1414
contains all of the following: 1415

(a) The name, address, and telephone number of the buyer; 1416

(b) The typewritten name of the loan officer and the number 1417
designated on the loan officer's license; 1418

(c) The street address, telephone number, and facsimile 1419
number of the registrant and the number designated on the 1420
registrant's certificate of registration; 1421

(d) The signature of the loan officer or registrant; 1422

(e) A statement indicating whether the buyer is to pay for 1423
the services of a bona fide third party if the registrant is 1424
unable to assist the buyer in obtaining a mortgage; 1425

(f) A statement that describes the method by which the fee to 1426
be paid by the buyer to the registrant will be calculated and a 1427
good faith estimate of the total amount of that fee; 1428

(g) A statement that the lender may pay compensation to the 1429
registrant; 1430

(h) A description of all the services the registrant has 1431
agreed to perform for the buyer; 1432

(i) A statement that the buyer has not entered into an 1433
exclusive agreement for brokerage services; 1434

(j) If the loan applied for will exceed ninety per cent of 1435
the value of the real property, a statement, printed in boldface 1436
type of the minimum size of sixteen points, as follows: "You are 1437
applying for a loan that is more than 90% of your home's value. It 1438
will be hard for you to refinance this loan. If you sell your 1439
home, you might owe more money on the loan than you get from the 1440

sale." 1441

(k) To acknowledge receipt, the signature of the buyer. 1442

(2) If the loan is a covered loan as defined in section 1443
1349.25 of the Revised Code, the registrant shall also deliver a 1444
copy of the mortgage loan origination disclosure statement to the 1445
lender. 1446

(B)(1) If there is any change in the information provided 1447
under division (A)(1)(~~f~~) or (~~h~~) of this section, the registrant 1448
shall provide the buyer with the revised mortgage loan origination 1449
disclosure statement and a written explanation of why the change 1450
occurred no later than ~~three days~~ twenty-four hours after the 1451
change occurs, or ~~the date~~ twenty-four hours before the loan is 1452
closed, whichever is earlier. 1453

(2) If an increase in the total amount of the fee to be paid 1454
by the buyer to the registrant is not disclosed in accordance with 1455
division (B)(1) of this section, the registrant shall refund to 1456
the buyer the amount by which the fee exceeds the amount 1457
previously estimated under division (A)(1)(f) of this section. If 1458
the fee is financed into the loan, the registrant shall also 1459
refund to the buyer the interest that would accrue over the term 1460
of the loan on that excess amount. 1461

(C) A registrant shall deliver to the buyer, immediately upon 1462
receipt, a copy of any credit score and report obtained regarding 1463
the buyer by the registrant for the purpose of the mortgage loan 1464
application; 1465

If the loan officer or registrant uses an automated valuation 1466
model to determine an appraisal report, the registrant also shall 1467
include a copy of the automated valuation model report. 1468

(D) A registrant shall deliver to the buyer, at the same time 1469
that the registrant delivers the mortgage loan origination 1470

disclosure statement pursuant to division (A) of this section, a 1471
good faith estimate statement that discloses the amount of or 1472
range of charges for the specific settlement services the buyer is 1473
likely to incur in connection with the mortgage loan. The good 1474
faith estimate statement shall meet the requirements of the "Real 1475
Estate Settlement Procedures Act," 88 Stat. 1724 (1974). 12 1476
U.S.C.A. 2601 et seq., and shall include the following underlined 1477
notice in at least ten point type, new roman style: 1478

"Nature of Relationship: In connection with this residential 1479
mortgage loan, you, the borrower(s), has/have requested assistance 1480
from (company name) in arranging credit. We do not 1481
distribute all products in the marketplace and cannot guarantee 1482
the lowest rate. 1483

Termination: This agreement will continue until one of the 1484
following events occur: 1485

1. The loan closes. 1486
2. The request is denied. 1487
3. The borrower withdraws the request. 1488
4. The borrower decides to use another source for 1489
origination. 1490
5. The borrower is provided a revised good faith estimate 1491
statement. 1492

Notice to borrower(s): Signing this document does not obligate you 1493
to obtain a mortgage loan through this mortgage originator nor is 1494
this a loan commitment or an approval; nor is your interest rate 1495
locked at this time unless otherwise disclosed on a separate Rate 1496
Lock Disclosure Form. Do not sign this document until you have 1497
read and understood the information in it. Fees received under 1498
this estimate are legal and permissible under the Real Estate 1499
Settlement Procedures Act. You will receive a re-disclosure of any 1500

increase in interest rate or if the total sum of disclosed 1501
settlement/closing costs increase by 10% or more of the original 1502
estimate. Should any such increase occur; mandatory re-disclosure 1503
must occur prior to the settlement or close of escrow." 1504

(E) No registrant shall fail to comply with this section. 1505

Sec. 1322.063. (A) In addition to the disclosures required 1506
under section 1322.062 of the Revised Code, a registrant shall, 1507
not later than twenty-four hours before a loan is closed, deliver 1508
to the buyer a written disclosure that includes the following: 1509

(1) A statement indicating whether property taxes and 1510
insurance will be escrowed; 1511

(2) A description of what is covered by the regular monthly 1512
payment, including principal, interest, taxes, and insurance, as 1513
applicable. 1514

(B) No registrant shall fail to comply with this section. 1515

Sec. 1322.064. (A) No registrant or licensee shall fail to do 1516
either of the following: 1517

(1) Timely inform the buyer of any material change in the 1518
terms of the loan. For purposes of division (A)(1) of this 1519
section, "material change" means the following: 1520

(a) A change in the type of loan being offered, such as a 1521
fixed or variable rate loan or a loan with a balloon payment; 1522

(b) A change in the term of the loan, as reflected in the 1523
number of monthly payments due before a final payment is scheduled 1524
to be made; 1525

(c) An increase in the interest rate of more than 0.15%; 1526

(d) An increase in the regular monthly payment of principal 1527
and interest of more than five per cent; 1528

<u>(e) A change regarding the escrow of taxes or insurance;</u>	1529
<u>(f) A change regarding the payment of private mortgage insurance.</u>	1530 1531
<u>(2) Timely inform the buyer if any fees payable to the broker or lender increase by more than ten per cent or one hundred dollars, whichever is greater.</u>	1532 1533 1534
<u>(B) The disclosures required by this section shall be deemed timely if the registrant provides the buyer with the revised information not later than twenty-four hours after the change occurs, or twenty-four hours before the loan is closed, whichever is earlier.</u>	1535 1536 1537 1538 1539
Sec. 1322.07. (A) No mortgage broker, registrant, licensee, or applicant for a certificate of registration or license under sections 1322.01 to 1322.12 of the Revised Code shall do any of the following:	1540 1541 1542 1543
(A) <u>(1)</u> Obtain a certificate of registration or license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application;	1544 1545 1546 1547 1548
(B) <u>(2)</u> Make false or misleading statements of a material fact, omissions of statements required by state law, or false promises regarding a material fact, through advertising or other means, or engage in a continued course of misrepresentations;	1549 1550 1551 1552
(C) <u>(3)</u> Engage in conduct that constitutes improper, fraudulent, or dishonest dealings;	1553 1554
(D) <u>(4)</u> Fail to notify the division of financial institutions within thirty days after the registrant, licensee, or applicant, in a court of competent jurisdiction of this state or any other state, is convicted of or pleads guilty to any criminal offense	1555 1556 1557 1558

involving theft, receiving stolen property, embezzlement, forgery, 1559
fraud, passing bad checks, money laundering, or drug trafficking, 1560
or any criminal offense involving money or securities; 1561

~~(E)~~(5) Knowingly make, propose, or solicit fraudulent, false, 1562
or misleading statements on any mortgage document or on any 1563
document related to a mortgage, including a mortgage application, 1564
real estate appraisal, or real estate settlement or closing 1565
document. For purposes of this division, "fraudulent, false, or 1566
misleading statements" does not include mathematical errors, 1567
inadvertent transposition of numbers, typographical errors, or any 1568
other bona fide error. 1569

~~(F)~~(6) Knowingly instruct, solicit, propose, or otherwise 1570
cause a buyer to sign in blank a mortgage related document; 1571

(7) Promise to refinance a loan in the future at a lower 1572
interest rate or with more favorable terms, unless the promise is 1573
set forth in writing and is initialed by the buyer. 1574

(B) No mortgage broker, registrant, or licensee, for the 1575
purpose of corrupting or improperly influencing the independent 1576
judgment of a person certified, licensed, or registered as a real 1577
estate appraiser under section 4763.05 of the Revised Code, shall 1578
knowingly instruct, influence, bribe, coerce, or extort a person 1579
certified, licensed, or registered as a real estate appraiser 1580
under section 4763.05 of the Revised Code. However, a lender, 1581
mortgage banker, or mortgage broker is not prohibited from asking 1582
the appraiser to consider additional appropriate property 1583
information, to provide further detail, substantiation or 1584
explanation for the appraiser's value conclusion, or to correct 1585
errors in the appraisal report. 1586

Sec. 1322.074. (A) As used in this section and section 1587
1322.075 of the Revised Code: 1588

(1) "Appraisal company" means a sole proprietorship, partnership, corporation, limited liability company, or any other business entity or association, that employs or retains the services of a person licensed or certified under Chapter 4763. of the Revised Code for purposes of performing residential real estate appraisals for mortgage loans. 1589
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(2) "Immediate family" means a spouse residing in the person's household and any dependent child. 1595
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(B) Except as otherwise provided in division (C) of this section, no registrant, or any member of the registrant's immediate family, shall own or control a majority interest in an appraisal company. 1597
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(C) Division (B) of this section shall not apply to any registrant, or any member of the registrant's immediate family, who, on the effective date of this section, owns or controls a majority interest in an appraisal company. However, such ownership or control is subject to the following conditions: 1601
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(1) The registrant and members of the registrant's immediate family shall not increase their interest in the company. 1606
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(2) The interest is not transferable to a member of the registrant's immediate family. 1608
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(3) If the registrant is convicted of or pleads guilty to a criminal violation of sections 1322.01 to 1322.12 of the Revised Code or any criminal offense described in division (A)(1)(b) of section 1322.10 of the Revised Code, the superintendent of financial institutions may, as an alternative to any of the actions authorized under section 1322.10 of the Revised Code, order the registrant or members of the registrant's immediate family to divest their interest in the company. 1610
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Sec. 1322.075. (A) No registrant or licensee or person 1618

required to be registered or licensed under Chapter 1322. of the 1619
Revised Code shall refer a buyer to any settlement service 1620
provider, including any title insurance company, without providing 1621
the buyer with written notice disclosing all of the following: 1622

(1) Any business relationship that exists between the 1623
registrant, licensee, or person required to be registered or 1624
licensed under Chapter 1322. of the Revised Code, and the company 1625
to which the buyer is being referred, and any financial benefit 1626
that the registrant or licensee may be provided because of the 1627
relationship; 1628

(2) The percentage of ownership interest the registrant, 1629
licensee, or person required to be registered or licensed under 1630
Chapter 1322. of the Revised Code has in the company to which the 1631
buyer is being referred; 1632

(3) The estimated charge or range of charges for the 1633
settlement service listed; 1634

(4) The following statement, printed in boldface type of the 1635
minimum size of sixteen points, and in all capital letters: "THERE 1636
ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH 1637
SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT 1638
YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE 1639
SERVICES." 1640

(B) No registrant or licensee shall refer a buyer to an 1641
appraisal company, if the registrant or licensee, or a member of 1642
the registrant's or licensee's immediate family, has either of the 1643
following financial relationships with the appraisal company: 1644

(1) An ownership or investment interest in the company or 1645
agent, whether through debt, equity, or other means; 1646

(2) Any compensation arrangement involving any remuneration, 1647
directly or indirectly, overtly or covertly, in cash or in kind. 1648

(C) No registrant or licensee shall knowingly enter into an arrangement or scheme, including a cross-referral arrangement, that has a principal purpose of assuring referrals by a registrant or licensee to a particular appraisal company that would violate division (B) of this section. 1649
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(D) The registrant, licensee, or person required to be registered or licensed under Chapter 1322. of the Revised Code, shall retain proof that the buyer received the written disclosures required by division (A) of this section for four years. 1654
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Sec. 1322.081. (A) A registrant, licensee, and any person required to be registered or licensed under this chapter has a fiduciary duty with respect to any funds received from or on behalf of the buyer and shall use the funds only for the purposes consistent with this chapter. 1658
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(B) In addition to the requirements and prohibitions imposed by this chapter, a registrant, licensee, and any person required to be registered or licensed under this chapter who has direct contact with a buyer shall follow reasonable and lawful instructions from the buyer, act with reasonable skill, care, and diligence, and make reasonable efforts with lenders with whom the registrant or licensee regularly does business to secure a loan that is reasonably advantageous to the borrower considering all the circumstances, including the rates, charges, and repayment terms of the loan and the loan options for which the borrower qualifies with these lenders. 1663
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(C) If a buyer is approved for more than one loan product or by more than one lender, the registrant, licensee, or person who is required to be registered or licensed shall present each option to the buyer, who shall not be hindered from choosing the option the buyer deems to best suit the buyer's needs, situation, or goals. 1674
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(D) The fiduciary duty and standards of care created in this 1680
section cannot be waived or modified. 1681

Sec. 1322.10. (A) After notice and opportunity for a hearing 1682
conducted in accordance with Chapter 119. of the Revised Code, the 1683
superintendent of financial institutions may do the following: 1684

(1) Suspend, revoke, or refuse to issue or renew a 1685
certificate of registration or license if the superintendent finds 1686
either of the following: 1687

(a) A violation of or failure to comply with any provision of 1688
sections 1322.01 to 1322.12 of the Revised Code or the rules 1689
adopted under those sections or any other law applicable to the 1690
business conducted under a certificate of registration; 1691

(b) A conviction of or guilty plea to any criminal offense 1692
involving theft, receiving stolen property, embezzlement, forgery, 1693
fraud, passing bad checks, money laundering, or drug trafficking, 1694
or any criminal offense involving money or securities. 1695

(2) Impose a fine of not more than one thousand dollars, for 1696
each day a violation of a law or rule is committed, repeated, or 1697
continued. If the registrant or licensee engages in a pattern of 1698
repeated violations of a law or rule, the superintendent may 1699
impose a fine of not more than two thousand dollars for each day 1700
the violation is committed, repeated, or continued. All fines 1701
collected pursuant to this division shall be paid to the treasurer 1702
of state to the credit of the consumer finance fund created in 1703
section 1321.21 of the Revised Code. In determining the amount of 1704
a fine to be imposed pursuant to this division, the superintendent 1705
shall consider all of the following: 1706

(a) The seriousness of the violation; 1707

(b) The registrant's or licensee's good faith efforts to 1708
prevent the violation; 1709

(c) The registrant's or licensee's history regarding	1710
violations and compliance with division orders;	1711
(d) The registrant's or licensee's financial resources;	1712
(e) Any other matters the superintendent considers	1713
appropriate in enforcing sections 1322.01 to 1322.12 of the	1714
Revised Code.	1715
(B) The superintendent may investigate alleged violations of	1716
sections 1322.01 to 1322.12 of the Revised Code or the rules	1717
adopted under those sections or complaints concerning any such	1718
violation. The superintendent may make application to the court of	1719
common pleas for an order enjoining any such violation, and, upon	1720
a showing by the superintendent that a person has committed or is	1721
about to commit such a violation, the court shall grant an	1722
injunction, restraining order, or other appropriate relief.	1723
(C) In conducting any investigation pursuant to this section,	1724
the superintendent may compel, by subpoena, witnesses to testify	1725
in relation to any matter over which the superintendent has	1726
jurisdiction and may require the production of any book, record,	1727
or other document pertaining to that matter. If a person fails to	1728
file any statement or report, obey any subpoena, give testimony,	1729
produce any book, record, or other document as required by a	1730
subpoena, or permit photocopying of any book, record, or other	1731
document subpoenaed, the court of common pleas of any county in	1732
this state, upon application made to it by the superintendent,	1733
shall compel obedience by attachment proceedings for contempt, as	1734
in the case of disobedience of the requirements of a subpoena	1735
issued from the court or a refusal to testify therein.	1736
(D) If the superintendent determines that a person is engaged	1737
in or is believed to be engaged in activities that may constitute	1738
a violation of sections 1322.01 to 1322.12 of the Revised Code,	1739
the superintendent, after notice and a hearing conducted in	1740

accordance with Chapter 119. of the Revised Code, may issue a
cease and desist order. Such an order shall be enforceable in the
court of common pleas.

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

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

(a) Suspend the certificate of registration or license of a
registrant or licensee who is convicted of or pleads guilty to a
criminal violation of any provision of sections 1322.01 to 1322.12
of the Revised Code or any criminal offense described in division
(A)(1)(b) of this section;

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

(c) Require a registrant or licensee, or an applicant for a
certificate of registration or license, in lieu of school
transcripts, to provide a written statement that they have met the
education requirements of section 1322.03 or 1322.031 of the
Revised Code;

(d) Conduct an investigation of qualifying education
transcripts, pursuant to sections 1322.03 and 1322.031 of the
Revised Code, unannounced, at any registrant's or licensee's place
of business and, if the registrant or licensee has failed to
comply with the superintendent's request to inspect, immediately
suspend the license of the loan officer for whose transcripts an
inspection was requested.

(2) The superintendent, without a prior hearing, shall 1771
suspend the certificate of registration or license of a registrant 1772
or licensee who has failed to meet the continuing education 1773
requirements of section 1322.052 of the Revised Code. Said 1774
suspension shall be until such time as the required continuing 1775
education is completed and designated to the appropriate reporting 1776
period and a fine of five hundred dollars is paid to the treasurer 1777
of state to the credit of the consumer finance fund, whichever is 1778
earlier; 1779

(3) The superintendent may, in accordance with Chapter 119. 1780
of the Revised Code, subsequently revoke any registration or 1781
license suspended under division (F)(1) of this section. 1782

Sec. 1322.11. (A)(1) A buyer injured by a violation of 1783
section 1322.02, 1322.062, 1322.063, 1322.064, 1322.07, 1322.071, 1784
1322.08, 1322.081, or 1322.09 of the Revised Code may bring an 1785
action for recovery of damages. 1786

(2) Damages awarded under division (A)(1) of this section 1787
shall not be less than ~~the amount paid by the buyer to the~~ 1788
~~mortgage broker~~ all compensation paid directly and indirectly to a 1789
mortgage broker from any source, plus reasonable attorney's fees 1790
and court costs. 1791

(3) The buyer may be awarded punitive damages. 1792

(B)(1) The superintendent of financial institutions, ~~the~~ 1793
~~attorney general,~~ or a buyer may directly bring an action to 1794
enjoin a violation of sections 1322.01 to 1322.12 of the Revised 1795
Code. The attorney general may directly bring an action to enjoin 1796
a violation of sections 1322.01 to 1322.12 of the Revised Code 1797
with the same rights, privileges, and powers as those described in 1798
section 1345.06 of the Revised Code. The prosecuting attorney of 1799
the county in which the action may be brought may bring an action 1800

to enjoin a violation of sections 1322.01 to 1322.12 of the 1801
Revised Code only if the prosecuting attorney first presents any 1802
evidence of the violation to the attorney general and, within a 1803
reasonable period of time, the attorney general has not agreed to 1804
bring the action. 1805

(2) The superintendent may initiate criminal proceedings 1806
under sections 1322.01 to 1322.12 of the Revised Code by 1807
presenting any evidence of criminal violation to the prosecuting 1808
attorney of the county in which the offense may be prosecuted. If 1809
the prosecuting attorney does not prosecute the violations, or at 1810
the request of the prosecuting attorney, the superintendent shall 1811
present any evidence of criminal violations to the attorney 1812
general, who may proceed in the prosecution with all the rights, 1813
privileges, and powers conferred by law on prosecuting attorneys, 1814
including the power to appear before grand juries and to 1815
interrogate witnesses before such grand juries. These powers of 1816
the attorney general shall be in addition to any other applicable 1817
powers of the attorney general. 1818

(3) The prosecuting attorney of the county in which an 1819
alleged offense may be prosecuted may initiate criminal 1820
proceedings under sections 1322.01 to 1322.12 of the Revised Code. 1821

(4) In order to initiate criminal proceedings under sections 1822
1322.01 to 1322.12 of the Revised Code, the attorney general shall 1823
first present any evidence of criminal violations to the 1824
prosecuting attorney of the county in which the alleged offense 1825
may be prosecuted. If, within a reasonable period of time, the 1826
prosecuting attorney has not agreed to prosecute the violations, 1827
the attorney general may proceed in the prosecution with all the 1828
rights, privileges, and powers described in division (B)(2) of 1829
this section. 1830

(5) When a judgment under this section becomes final, the 1831
clerk of court shall mail a copy of the judgment, including 1832

supporting opinions, to the superintendent. 1833

(C) The remedies provided by this section are in addition to 1834
any other remedy provided by law. 1835

(D) In any proceeding or action brought under sections 1836
1322.01 to 1322.12 of the Revised Code, the burden of proving an 1837
exemption under those sections is on the person claiming the 1838
benefit of the exemption. 1839

(E) No person shall be deemed to violate sections 1322.01 to 1840
1322.12 of the Revised Code with respect to any act taken or 1841
omission made in reliance on a written notice, written 1842
interpretation, or written report from the superintendent, unless 1843
there is a subsequent amendment to those sections, or rules 1844
promulgated thereunder, that affects the superintendent's notice, 1845
interpretation, or report. 1846

(F) Upon disbursement of mortgage loan proceeds to or on 1847
behalf of the buyer, the registrant that assisted the buyer to 1848
obtain the mortgage loan is deemed to have completed the 1849
performance of the registrant's services for the buyer and owes no 1850
additional duties or obligations to the buyer with respect to the 1851
mortgage loan. However, nothing in this division shall be 1852
construed to limit or preclude the civil or criminal liability of 1853
a registrant for failing to comply with sections 1322.01 to 1854
1322.12 of the Revised Code or any rule adopted under those 1855
sections, for failing to comply with any provision of or duty 1856
arising under an agreement with a buyer or lender under sections 1857
1322.01 to 1322.12 of the Revised Code, or for violating any other 1858
provision of state or federal law. 1859

Sec. 1322.99. (A) Whoever violates division (A)(1) or (2) of 1860
section 1322.02, division (E) ~~or~~ (F), or (G) of section 1322.07, 1861
division (B)(1) or (2) of section 1322.071, or section 1322.08 of 1862

the Revised Code is guilty of a felony of the fifth degree. 1863

(B) Whoever violates division (B)(3) of section 1322.071 of 1864
the Revised Code is guilty of a felony of the fourth degree. 1865

(C) Whoever violates division (B) of section 1322.02 of the 1866
Revised Code is guilty of a misdemeanor of the first degree. 1867

Sec. 1343.011. (A) As used in this section: 1868

(1) "Discount points" means any charges, whether or not 1869
actually denominated as "discount points," that are paid by the 1870
seller or the buyer of residential real property to a residential 1871
mortgage lender or that are deducted and retained by a residential 1872
mortgage lender from the proceeds of the residential mortgage. 1873
"Discount points" does not include the costs associated with 1874
settlement services as defined in the "Real Estate Settlement 1875
Procedures Act of 1974," 88 Stat. 1724, 12 U.S.C. 2601, amendments 1876
thereto, reenactments thereof, enactments parallel thereto, or in 1877
substitution therefor, or regulations issued thereunder. 1878

(2) "Residential mortgage" means an obligation to pay a sum 1879
of money evidenced by a note and secured by a lien upon real 1880
property located within this state containing two or fewer 1881
residential units or on which two or fewer residential units are 1882
to be constructed and includes such an obligation on a residential 1883
condominium or cooperative unit. 1884

(3) "Residential mortgage lender" means any person, bank, or 1885
savings and loan association that lends money or extends or grants 1886
credit and obtains a residential mortgage to assure payment of the 1887
debt. The term also includes the holder at any time of a 1888
residential mortgage obligation. 1889

(B) Except residential mortgage loans described in division 1890
(B)(3) of section 1343.01 of the Revised Code, no residential 1891
mortgage lender shall receive either directly or indirectly from a 1892

seller or buyer of real estate any discount points in excess of 1893
two per cent of the original principal amount of the residential 1894
mortgage. This division is not a limitation on discount points or 1895
other charges for purposes of section 501(b)(4) of the "Depository 1896
Institutions Deregulation and Monetary Control Act of 1980," 94 1897
Stat. 161, 12 U.S.C.A. 1735f-7a. 1898

(C) ~~Residential~~ (1) Except as provided in division (C)(2) of 1899
this section, mortgage obligations ~~contracted for on or after~~ 1900
~~November 4, 1975,~~ may be prepaid or refinanced without penalty at 1901
any time after five years from the execution date of the mortgage. 1902
Prior to such time a prepayment or refinancing penalty may be 1903
provided not in excess of one per cent of the original principal 1904
amount of the residential mortgage. 1905

(2) No penalty may be charged for the prepayment or 1906
refinancing of any mortgage obligation of less than fifty thousand 1907
dollars issued by a mortgage broker, loan officer, or nonbank 1908
mortgage lender as those terms are defined in section 1349.25 of 1909
the Revised Code. 1910

Sec. 1349.25. As used in sections 1349.25 to ~~1349.37~~ 1349.44 1911
of the Revised Code: 1912

(A) "Actuarial method" means the method of allocating 1913
payments made on a debt between the amount financed and the 1914
finance charge pursuant to which a payment is applied first to the 1915
accumulated finance charge and any remainder is subtracted from, 1916
or any deficiency is added to, the unpaid balance of the amount 1917
financed. 1918

(B) "Consumer" means a natural person to whom credit is 1919
offered or extended primarily for personal, family, or household 1920
purposes. 1921

(C) "Consummation" means the time that a consumer becomes 1922

contractually obligated on a credit transaction. 1923

(D) "Covered loan" means a consumer credit mortgage loan 1924
transaction that meets ~~both~~ all of the following criteria: 1925

(1) The loan involves property located within this state. 1926

(2) The loan is considered a mortgage under section 152(a) of 1927
the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 1928
2190, 15 U.S.C.A. 1602(aa), as amended, ~~and the regulations~~ 1929
~~adopted thereunder by the federal reserve board, as amended.~~ 1930

(3) The loan is related to a consumer credit transaction that 1931
is secured by the consumer's principal dwelling, and in which 1932
either: 1933

(a) The annual percentage rate at consummation exceeds by 1934
more than eight percentage points for first-lien loans, or by more 1935
than ten percentage points for subordinate-lien loans, the yield 1936
on treasury securities having comparable periods of maturity to 1937
the loan maturity as of the fifteenth day of the month immediately 1938
preceding the month in which the application for the extension of 1939
credit is received by the creditor; 1940

(b) The total points and fees payable by the consumer at or 1941
before loan closing, including single premium credit insurance, 1942
exceed five per cent of the total loan amount, or six per cent of 1943
the total loan amount, including all fees paid to the mortgage 1944
broker, loan officer, or nonbank mortgage lender, if the 1945
transaction contains a yield spread premium. 1946

(E) "Credit" means the right granted by a creditor to a 1947
debtor to defer payment of debt or to incur debt and defer its 1948
payment. 1949

(F) "Creditor" has the same meaning as in section 152(c) of 1950
the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 1951
2190, 15 U.S.C.A. 1602(f), as amended, and the regulations adopted 1952

thereunder by the federal reserve board, as amended. 1953

(G) "Person" means a natural person, partnership, 1954
association, trust, corporation, or any other legal entity. 1955

(H) "Loan officer" has the same meaning as in section 1322.01 1956
of the Revised Code, except that it does not include an employee 1957
of a bank, savings bank, savings and loan association, credit 1958
union, or credit union service organization organized under the 1959
laws of this state, another state, or the United States; an 1960
employee of a subsidiary of such a bank, savings bank, savings and 1961
loan association, or credit union; or an employee of an affiliate 1962
that (1) controls, is controlled by, or is under common control 1963
with, such a bank, savings bank, savings and loan association, or 1964
credit union and (2) is subject to examination, supervision, and 1965
regulation, including with respect to the affiliate's compliance 1966
with applicable consumer protection requirements, by the board of 1967
governors of the federal reserve system, the comptroller of the 1968
currency, the office of thrift supervision, the federal deposit 1969
insurance corporation, or the national credit union 1970
administration. 1971

(I) "Mortgage" means any indebtedness secured by a deed of 1972
trust, security deed, or other lien on real property. 1973

(J) "Mortgage broker" has the same meaning as in section 1974
1322.01 of the Revised Code, except that it does not include a 1975
bank, savings bank, savings and loan association, credit union, or 1976
credit union service organization organized under the laws of this 1977
state, another state, or the United States; a subsidiary of such a 1978
bank, savings bank, savings and loan association, or credit union; 1979
an affiliate that (1) controls, is controlled by, or is under 1980
common control with, such a bank, savings bank, savings and loan 1981
association, or credit union and (2) is subject to examination, 1982
supervision, and regulation, including with respect to the 1983

affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration; or an employee of any such entity. 1984
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(K) "Nonbank mortgage lender" means any person that engages in a mortgage loan transaction with a consumer, except for a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; a subsidiary of such a bank, savings bank, savings and loan association, or credit union; or an affiliate that (1) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (2) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration. 1990
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(L) For purposes of divisions (H), (J), and (K) of this section: 2005
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(1) "Control" of another entity means ownership, control, or power to vote twenty-five per cent or more of the outstanding shares of any class of voting securities of the other entity, directly or indirectly or acting through one or more other persons. 2007
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(2) "Credit union service organization" means a CUSO as defined in 12 C.F.R. 702.2. 2012
2013

(M) "Consumer home loan" means a loan in which the borrower 2014

is a natural person, the debt is incurred by the borrower 2015
primarily for personal, family, or household purposes, and the 2016
loan is secured by a mortgage or deed of trust upon real estate 2017
upon which there is located or there is to be located a structure 2018
or structures designed principally for occupancy of from one to 2019
four families which is or will be occupied by the borrower as the 2020
borrower's principal dwelling. 2021

(N) "Consumer transaction" means a loan transaction between a 2022
loan officer, mortgage broker, or nonbank mortgage lender and 2023
their customers. 2024

(O) "Supplier" means a loan officer, mortgage broker, or 2025
nonbank mortgage lender but does not include any transferee, 2026
assignee, or holder of any consumer transaction. 2027

(P) "Enforcement actions" means administrative and judicial 2028
actions that are in the public record. 2029

(Q) "Knowledge" means actual awareness. Actual awareness may 2030
be inferred where objective manifestations indicate that the 2031
individual involved acted with such awareness. 2032

Sec. 1349.31. (A)(1) No creditor shall willfully and 2033
knowingly fail to comply with section 1349.26 or 1349.27 of the 2034
Revised Code. For purposes of division (A)(1) of this section, 2035
"willfully and knowingly" has the same meaning as in section 112 2036
of the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C.A. 2037
1611, as amended. 2038

(2) Whoever violates division (A)(1) of this section is 2039
guilty of a felony of the fifth degree. 2040

(B) The superintendent of financial institutions may directly 2041
bring an action to enjoin a violation of this section. The 2042
attorney general may directly bring an action to enjoin a 2043
violation of this section with the same rights, privileges, and 2044

powers as those described in section 1345.06 of the Revised Code. 2045
The prosecuting attorney of the county in which the action may be 2046
brought may bring an action to enjoin a violation of this section 2047
only if the prosecuting attorney first presents any evidence of 2048
the violation to the attorney general and, within a reasonable 2049
period of time, the attorney general has not agreed to bring the 2050
action. 2051

(C)(1) The superintendent of financial institutions may 2052
initiate criminal proceedings under this section by presenting any 2053
evidence of criminal violations to the prosecuting attorney of the 2054
county in which the offense may be prosecuted. If the prosecuting 2055
attorney does not prosecute the violations, or at the request of 2056
the prosecuting attorney, the superintendent shall present any 2057
evidence of criminal violations to the attorney general, who may 2058
proceed in the prosecution with all the rights, privileges, and 2059
powers conferred by law on prosecuting attorneys, including the 2060
power to appear before grand juries and to interrogate witnesses 2061
before such grand juries. These powers of the attorney general 2062
shall be in addition to any other applicable powers of the 2063
attorney general. 2064

(2) The prosecuting attorney of the county in which an 2065
alleged offense may be prosecuted may initiate criminal 2066
proceedings under this section. 2067

(3) In order to initiate criminal proceedings under this 2068
section, the attorney general shall first present any evidence of 2069
criminal violations to the prosecuting attorney of the county in 2070
which the alleged offense may be prosecuted. If, within a 2071
reasonable period of time, the prosecuting attorney has not agreed 2072
to prosecute the violations, the attorney general may proceed in 2073
the prosecution with all the rights, privileges, and powers 2074
described in division (C)(1) of this section. 2075

Sec. 1349.38. (A) No supplier shall commit an unfair or 2076
deceptive act or practice in connection with a consumer 2077
transaction. Such an unfair or deceptive act or practice by a 2078
supplier violates this section whether it occurs before, during, 2079
or after the transaction. 2080

(B) Without limiting the scope of division (A) of this 2081
section, the act or practice of a supplier in representing any of 2082
the following is deceptive: 2083

(1) That the subject of a consumer transaction has 2084
sponsorship, approval, performance characteristics, accessories, 2085
uses, or benefits that it does not have; 2086

(2) That the subject of a consumer transaction is of a 2087
particular standard, quality, grade, style, prescription, or 2088
model, if it is not; 2089

(3) That the subject of a consumer transaction is new, or 2090
unused, if it is not; 2091

(4) That the subject of a consumer transaction is available 2092
to the consumer for a reason that does not exist; 2093

(5) That the subject of a consumer transaction has been 2094
supplied in accordance with a previous representation, if it has 2095
not, except that the act of a supplier in furnishing similar 2096
merchandise of equal or greater value as a good faith substitute 2097
does not violate this section; 2098

(6) That the subject of a consumer transaction will be 2099
supplied in greater quantity than the supplier intends; 2100

(7) That replacement or repair is needed, if it is not; 2101

(8) That a specific price advantage exists, if it does not; 2102

(9) That the supplier has a sponsorship, approval, or 2103
affiliation that the supplier does not have; 2104

(10) That a consumer transaction involves or does not involve a warranty, a disclaimer of warranties or other rights, remedies, or obligations if the representation is false. 2105
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(C) In construing division (A) of this section, the court shall give due consideration and great weight 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. 2108
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(D) No supplier shall offer to a consumer or represent that a consumer will receive a rebate, discount, or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers, or otherwise helping the supplier to enter into other consumer transactions, if earning the benefit is contingent upon an event occurring after the consumer enters into the transaction. 2114
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(E) In addition to those acts or practices listed in division (B) of this section, the following acts or practices of a supplier in connection with a consumer transaction are an unfair or deceptive act or practice: 2121
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(1) Failing to clearly and conspicuously disclose to the consumer, in a consumer transaction subject to the disclosure requirements of the "Real Estate Settlement Procedures Act of 1974," 88 Stat. 1724, 12 U.S.C. 2601 et seq., that the lender is paying a yield spread premium or any other type of compensation to a mortgage broker. A supplier that complies with the disclosure requirements of the "Real Estate Settlement Procedures Act of 1974," 88 Stat. 1724, 12 U.S.C. 2601 et seq., and the disclosure requirements of section 1322.062 of the Revised Code shall be deemed to be in compliance with this division. 2125
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(2) Arranging for or making a consumer transaction that 2135

provides for an interest rate applicable after default that is 2136
higher than the interest rate that applies before default, 2137
excluding rates of interest for judgments and also excluding 2138
interest rate changes in a variable rate loan transaction 2139
otherwise consistent with the provisions of the loan documents; 2140

(3) Engaging in a pattern or practice of providing consumer 2141
transactions to consumers based predominantly on the supplier's 2142
realization of the foreclosure or liquidation value of the 2143
consumer's collateral without regard to the consumer's ability to 2144
repay the loan in accordance with its terms, provided that the 2145
supplier may use any reasonable method to determine a borrower's 2146
ability to repay; 2147

(4) Making a consumer transaction that includes a demand 2148
feature that permits the creditor to terminate the consumer 2149
transaction in advance of the original maturity date and to demand 2150
repayment of the entire outstanding balance, except in any of the 2151
following circumstances: 2152

(a) There is fraud or material misrepresentation by the 2153
consumer in connection with the consumer transaction. 2154

(b) The consumer fails to comply with the material terms of 2155
the agreement. 2156

(c) Collateral securing the consumer transaction is adversely 2157
affected. 2158

(5) Knowingly replacing or consolidating a zero interest rate 2159
or other low-rate consumer transaction made by a governmental or 2160
nonprofit lender with another loan of the low-rate loan unless the 2161
current holder of the loan consents in writing to the refinancing. 2162
For purposes of division (E)(5) of this section, a "low-rate 2163
consumer transaction" means a consumer transaction that carries a 2164
current interest rate two percentage points or more below the 2165
current yield on United States treasury securities with a 2166

comparable maturity. If the loan's current interest rate is either 2167
a discounted introductory rate or a rate that automatically steps 2168
up over time, the fully indexed rate or the fully stepped-up rate, 2169
as applicable, shall be used, in lieu of the current rate, to 2170
determine whether a loan is a low-rate loan. 2171

(6) Instructing the consumer to ignore the supplier's written 2172
information regarding the interest rate and dollar value of points 2173
because they would be lower for the consumer's consumer 2174
transaction; 2175

(7) Misrepresenting and failing to disclose any points and 2176
fees charged and retained by the supplier associated with a 2177
consumer transaction; 2178

(8) Recommending or encouraging a consumer to default on a 2179
mortgage or any consumer transaction or revolving credit loan 2180
agreement; 2181

(9) Charging a late fee more than once with respect to a 2182
single late payment. If a late payment fee is deducted from a 2183
payment made on the loan and such deduction causes a subsequent 2184
default on a subsequent payment, no late payment fee may be 2185
imposed for such default. If a late payment fee has been imposed 2186
once with respect to a particular late payment no such fee may be 2187
imposed with respect to any future payment that would have been 2188
timely and sufficient, but for the previous default. 2189

(10) Failing to disclose all the charges to the consumer at 2190
the closing of the consumer transaction in accordance with 2191
applicable law; 2192

(11) Making written representations concerning a closed-end 2193
consumer transaction about interest rates other than the contract 2194
rate and the annual percentage rate, and other default rates 2195
permitted by law; 2196

(12) If applicable, failing to disclose to the consumer in the closed-end consumer transaction that making minimum payments will not fully amortize the loan by the end of its term and will result in a balloon payment at the end of the term. The supplier shall disclose at the closing the full amount of the balloon payment and the payment required to pay off the consumer transaction by the end of the term if no further advances other than any initial advance are taken. 2197
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(13) Failing to disclose at the closing of the consumer transaction any prepayment penalty in that consumer transaction; 2205
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(14) Failing to provide payoff information on all underlying liens the supplier holds to the consumer or the consumer's authorized representative, within five business days of a consumer's written request, or as specifically permitted by state or federal law. Requests by mortgage brokers or other agents must be in writing and must include a written authorization from the consumer to provide the requested information. If applicable, a supplier shall provide, as promptly and accurately as is practicable, payoff information requested directly by a consumer in person at a branch location. 2207
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(15) Failing to disclose to the consumer at the closing of the consumer transaction that a consumer is not required to complete a consumer transaction merely because the consumer has received prior estimates of closing costs or has signed an application and should not close a loan transaction that contains different terms and conditions than those the consumer was promised; 2217
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(16) Failing to disclose to the consumer at the closing of the consumer transaction that once a consumer obtains a loan, the lender will have a mortgage on the consumer's real estate and that the consumer could lose title to the home, and any money the 2224
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<u>consumer has put into the property, if the consumer does not meet</u>	2228
<u>the obligations under the loan;</u>	2229
<u>(17) Failing to disclose at the closing of a consumer</u>	2230
<u>transaction:</u>	2231
<u>(a) In the case of a closed-end consumer transaction with a</u>	2232
<u>fixed rate of interest, the annual percentage rate, the amount of</u>	2233
<u>the monthly payments, and the amount of any balloon payment;</u>	2234
<u>(b) In the case of any other closed-end consumer transaction,</u>	2235
<u>the annual percentage rate of the consumer transaction, the amount</u>	2236
<u>of the monthly payment, and a statement that the interest rate and</u>	2237
<u>monthly payment may increase;</u>	2238
<u>(c) In the case of any other consumer transaction,</u>	2239
<u>disclosures required by the "Truth in Lending Act," 82 Stat. 146</u>	2240
<u>(1968) 15 U.S.C. 1601 et seq.</u>	2241
<u>(18) Arranging for or making a consumer transaction that</u>	2242
<u>includes terms under which more than two periodic payments</u>	2243
<u>required under the consumer transaction are consolidated and paid</u>	2244
<u>in advance from the loan proceeds provided to the consumer.</u>	2245
<u>(19) Knowingly or intentionally making a material</u>	2246
<u>misrepresentation or concealing material information regarding the</u>	2247
<u>terms or conditions of the transaction;</u>	2248
<u>(20) Knowingly bribing, coercing, or extorting a certificate</u>	2249
<u>holder or licensee for the purpose of corrupting or improperly</u>	2250
<u>influencing the independent judgment of the certificate holder or</u>	2251
<u>licensee. However, this section shall not prohibit a supplier from</u>	2252
<u>asking the appraiser to do one or more of the following:</u>	2253
<u>(a) Consider additional, appropriate property information;</u>	2254
<u>(b) Provide further detail, substantiation, or explanation</u>	2255
<u>for the appraiser's value conclusion;</u>	2256
<u>(c) Correct errors in the appraisal report.</u>	2257

(F) A supplier or its assignee is not liable in any action 2258
brought under sections 1349.25 to 1349.44 of the Revised Code, if 2259
the supplier or its assignee shows by a preponderance of evidence 2260
that the compliance failure was not intentional and resulted from 2261
a bona fide error notwithstanding the maintenance of procedures 2262
reasonably adapted to avoid any such error. For the purposes of 2263
this division, "bona fide error" includes, but is not limited to, 2264
clerical, calculation, computer malfunction and programming, and 2265
printing errors. 2266

(G) The attorney general shall promulgate rules to create and 2267
publish a "Home Buyers Bill of Rights" based on the unfair or 2268
deceptive act or practice list in division (E) of this section and 2269
the rules promulgated by the superintendent of financial 2270
institutions pursuant to this section. The document shall be made 2271
available to nonbank lenders, loan officers, and mortgage brokers 2272
within six months of the effective date of this section. The 2273
document shall be presented to the consumer of a home mortgage in 2274
the state along with the good faith estimate in connection with a 2275
loan application. An acknowledgement of receipt is to be held by 2276
the lender, loan officer, and broker. The department of commerce 2277
and the attorney general shall review this acknowledgment as part 2278
of any investigative process. 2279

(H) For the purpose of this section, "knowingly" means having 2280
actual knowledge at the time of the transaction. 2281

Sec. 1349.39. (A) The attorney general shall make available 2282
for public inspection all rules and all other written statements 2283
of policy or interpretations adopted or used by the attorney 2284
general, or the superintendent of financial institutions under 2285
division (C) of this section, in the discharge of the attorney 2286
general's functions, together with all judgments, including 2287
supporting opinions, by courts of this state that determine the 2288

rights of the parties and concerning which appellate remedies have 2289
been exhausted, or lost by the expiration of the time for appeal, 2290
determining that specific acts or practices violate sections 2291
1349.25 to 1349.44 of the Revised Code; 2292

(B) The superintendent of the division of financial 2293
institutions, in consultation with the attorney general, may 2294
adopt, amend, and repeal substantive rules defining with 2295
reasonable specificity acts or practices that violate section 2296
1349.38 or 1349.41 of the Revised Code. In adopting, amending, or 2297
repealing substantive rules defining acts or practices that 2298
violate section 1349.38 or 1349.41 of the Revised Code, due 2299
consideration and great weight shall be given to all of the 2300
following: 2301

(1) State and federal statutes, regulations, administrative 2302
agency interpretations, and case law; 2303

(2) Necessity of objective and specific standards for 2304
compliance; and, 2305

(3) Any potential negative impact on the secondary mortgage 2306
market; 2307

(4) The extent to which the amendments and requirements of 2308
this section make more expensive the credit process and negatively 2309
impact the credit availability for Ohio consumers. 2310

An explanation of these factors, and rationale, shall be published 2311
at the time a proposed amendment is published for comment under 2312
this section. 2313

(C) In the conduct of public hearings authorized by this 2314
section, the attorney general may administer oaths, subpoena 2315
witnesses, adduce evidence, and require the production of relevant 2316
material. Upon failure of a person without lawful excuse to obey a 2317
subpoena or to produce relevant matter, the attorney general may 2318

apply to a court of common pleas for an order compelling 2319
compliance. 2320

(D) The attorney general may request that an individual who 2321
refuses to testify or to produce relevant material on the ground 2322
that the testimony or matter may incriminate the individual be 2323
ordered by the court to provide the testimony or matter. With the 2324
exception of a prosecution for perjury and an action for damages 2325
under section 1345.07 or 1345.09 of the Revised Code, an 2326
individual who complies with a court order to provide testimony or 2327
matter, after asserting a privilege against self incrimination to 2328
which the individual is entitled by law, shall not be subjected to 2329
a criminal proceeding on the basis of the testimony or matter 2330
discovered through that testimony or matter. 2331

(E) Any person may petition the attorney general requesting 2332
the adoption, amendment, or repeal of a rule. The attorney general 2333
shall prescribe by rule the form for such petitions and the 2334
procedure for their submission, consideration, and disposition. 2335
Within sixty days of submission of a petition, the attorney 2336
general shall either deny the petition in writing, stating the 2337
reasons for the denial, or initiate rule-making proceedings. There 2338
is no right to appeal from such denial of a petition. 2339

(F) All rules shall be adopted subject to Chapter 119. of the 2340
Revised Code. 2341

Sec. 1349.40. (A) For purposes of this section, a loan is 2342
considered to be in default if it is at least thirty days past 2343
due. 2344

(B) No claim or defense under this chapter may be asserted by 2345
the attorney general or any consumer against an assignee or 2346
purchaser of a mortgage loan for value unless any one of the 2347
following applies: 2348

(1) The violation was committed by the assignee or purchaser 2349
before such assignment or purchase. 2350

(2) The assignee or purchaser is affiliated by common control 2351
with the seller of the loan at the time of such assignment or 2352
purchase and the loan was in default at the time of such 2353
assignment or purchase. 2354

Sec. 1349.41. (A) Except as otherwise provided in this 2355
section, a lender and a borrower may agree on any terms as to the 2356
prepayment of a home loan. 2357

(B) No mortgage broker, loan officer, or nonbank lender in a 2358
consumer home loan may finance, directly or indirectly, any credit 2359
life, disability, or unemployment insurance, or any other life or 2360
health insurance premiums. Insurance premiums calculated and paid 2361
on a monthly basis shall not be considered financed by the lender. 2362

(C) No mortgage broker, loan officer, or nonbank lender may 2363
knowingly or intentionally engage in the unfair act or practice of 2364
"flipping" a consumer home loan. "Flipping" a consumer loan is 2365
making a consumer home loan that refinances an existing consumer 2366
home loan when the new loan does not have reasonable, tangible net 2367
benefit to the borrower considering all of the circumstances, 2368
including the terms of both the new and refinanced loans, the cost 2369
of the new loan, and the borrower's circumstances. This provision 2370
applies regardless of whether the interest rate, points, fees, and 2371
charges paid or payable by the borrower in connection with the 2372
refinancing exceed any thresholds specified in any section of the 2373
Revised Code. 2374

Sec. 1349.42. (A)(1) A consumer who is harmed by a violation 2375
of section 1349.38 or 1349.41 of the Revised Code shall have all 2376
the rights, actions, and remedies available to consumers under 2377
Chapter 1345. of the Revised Code. 2378

(2) A supplier of a consumer who alleges harm due to a 2379
violation of section 1349.38 or 1349.41 of the Revised Code shall 2380
have all the rights, actions, and remedies available to suppliers 2381
under Chapter 1345. of the Revised Code. 2382

(B) The attorney general shall have all the powers the 2383
attorney general is given under Chapter 1345. of the Revised Code 2384
to investigate violations of section 1349.38 or 1349.41 of the 2385
Revised Code, to bring any actions related to those violations, 2386
and impose penalties of the type provided under Chapter 1345. of 2387
the Revised Code. 2388

(C) If a consumer transaction is secured by a mortgage loan, 2389
revocation of the consumer transaction in any action for 2390
rescission is only available to a consumer in an individual 2391
action, and shall occur for no reason other than one or more of 2392
the reasons set forth in the "Truth in Lending Act," 82 Stat. 146 2393
(1968), 15 U.S.C. 1635 not later than the time limit within which 2394
the right of rescission under the "Truth in Lending Act," 82 Stat. 2395
146 (1968), 15 U.S.C. 1635(f), as amended, expires. 2396

Sec. 1349.43. (A) The department of commerce shall establish 2397
and maintain an electronic database accessible through the 2398
internet that contains information on all of the following: 2399

(1) The enforcement actions taken by the superintendent of 2400
financial institutions for each violation of or failure to comply 2401
with any provision of sections 1322.01 to 1322.12 of the Revised 2402
Code, upon final disposition of the action; 2403

(2) The enforcement actions taken by the attorney general 2404
against loan officers, mortgage brokers, and nonbank mortgage 2405
lenders, upon final disposition of each action; 2406

(3) All judgments by courts of this state, concerning which 2407
appellate remedies have been exhausted or lost by the expiration 2408

<u>of the time for appeal, finding either of the following:</u>	2409
<u>(a) A violation of any provision of sections 1322.01 to</u>	2410
<u>1322.12 of the Revised Code;</u>	2411
<u>(b) That specific acts or practices by a loan officer,</u>	2412
<u>mortgage broker, or nonbank mortgage lender violate sections</u>	2413
<u>1349.25 to 1349.44 of the Revised Code.</u>	2414
<u>(B) The attorney general shall submit to the department, on</u>	2415
<u>the first day of each January, April, July, and October, a list of</u>	2416
<u>all enforcement actions and judgments described in divisions</u>	2417
<u>(A)(2) and (3)(b) of this section.</u>	2418
<u>(C) The department may adopt rules in accordance with Chapter</u>	2419
<u>119. of the Revised Code that are necessary to implement this</u>	2420
<u>section.</u>	2421
<u>(D) The electronic database maintained by the department</u>	2422
<u>pursuant to division (A) of this section shall not include</u>	2423
<u>information that, pursuant to section 1322.061 of the Revised</u>	2424
<u>Code, is confidential.</u>	2425
<u>Sec. 1349.44. (A) The superintendent of financial</u>	2426
<u>institutions shall report semiannually to the governor and the</u>	2427
<u>general assembly on the operations of the division of financial</u>	2428
<u>institutions with respect to the following:</u>	2429
<u>(1) Enforcement actions instituted by the superintendent for</u>	2430
<u>a violation of or failure to comply with any provision of sections</u>	2431
<u>1322.01 to 1322.12 of the Revised Code, and their final</u>	2432
<u>dispositions;</u>	2433
<u>(2) Suspensions, revocations, or refusals to issue or renew</u>	2434
<u>certificates of registration and licenses under sections 1322.01</u>	2435
<u>to 1322.12 of the Revised Code;</u>	2436
<u>(3) Outreach efforts of the office of consumer affairs to</u>	2437

<u>provide education regarding predatory lending, borrowing, and</u>	2438
<u>related financial topics.</u>	2439
<u>(B) The information required under divisions (A)(1) and (2)</u>	2440
<u>of this section does not include information that, pursuant to</u>	2441
<u>section 1322.061 of the Revised Code, is privileged and</u>	2442
<u>confidential.</u>	2443
<u>Sec. 1349.71. (A) There is hereby created a consumer</u>	2444
<u>financial education board, consisting of thirteen members,</u>	2445
<u>appointed jointly by the governor, the speaker of the house of</u>	2446
<u>representatives, and the president of the senate with the advice</u>	2447
<u>and consent of the house and senate. One member shall be appointed</u>	2448
<u>from or representing each of the following:</u>	2449
<u>(1) The Ohio attorney general's office;</u>	2450
<u>(2) The department of commerce;</u>	2451
<u>(3) The department of education;</u>	2452
<u>(4) The Ohio housing finance agency;</u>	2453
<u>(5) Ohio primary school teachers;</u>	2454
<u>(6) Ohio secondary school teachers;</u>	2455
<u>(7) Ohio minority advocacy groups;</u>	2456
<u>(8) The Ohio bankers league;</u>	2457
<u>(9) The Ohio mortgage bankers association;</u>	2458
<u>(10) The Ohio credit union league;</u>	2459
<u>(11) Ohio community bankers association;</u>	2460
<u>(12) The Ohio real estate industry;</u>	2461
<u>(13) The Ohio mortgage brokers association.</u>	2462
<u>(B) Geographically diverse representation of the state shall</u>	2463
<u>be considered in making appointments. Of the initial appointments</u>	2464

to the board, five shall be for a term ending December 31, 2008, 2465
four shall be for a term ending December 31, 2009, and four shall 2466
be for a term ending December 31, 2010. Thereafter, terms of 2467
office are for three years, commencing on the first day of January 2468
and ending on the thirty-first day of December. Each member shall 2469
hold office from the date of the member's appointment until the 2470
end of the term for which the member the member is appointed. 2471
Prior to assuming the duties of office, each member shall 2472
subscribe to, and file with the secretary of state, the 2473
constitutional oath of office. Vacancies that occur on the board 2474
shall be filled in the manner prescribed for regular appointments 2475
to the board. A member appointed to fill a vacancy occurring prior 2476
to the expiration of the term for which the member's predecessor 2477
was appointed shall hold office for the remainder of that 2478
predecessor's term. A member shall continue in office subsequent 2479
to the expiration date of the member's term until the member's 2480
successor takes office or until sixty days have elapsed, whichever 2481
occurs first. No person shall serve as a member of the board for 2482
more than two consecutive terms. The governor may remove a member 2483
pursuant to section 3.04 of the Revised Code. 2484

(C) Annually, upon the qualification of the members appointed 2485
in that year, the board shall organize by selecting from its 2486
members a chairperson. The board shall meet at least once each 2487
calendar quarter to conduct its business with the place of future 2488
meetings to be decided by a vote of its members. Each member shall 2489
be provided with written notice of the time and place of each 2490
board meeting at least ten days prior to the scheduled date of the 2491
meeting. A majority of the members of the board constitutes a 2492
quorum to transact and vote on all business coming before the 2493
board. 2494

(D) (1) The governor shall call the first meeting of the 2495
consumer financial education board. At that meeting, and annually 2496

thereafter, the board shall elect a chairperson for a one-year 2497
term and may elect members to other positions on the board as the 2498
board considers necessary or appropriate. 2499

(2) Each member of the board shall receive an amount fixed 2500
pursuant to division (J) of section 124.15 of the Revised Code for 2501
each day employed in the discharge of the member's official 2502
duties, and the member's actual and necessary expenses incurred in 2503
the discharge of those duties. 2504

(E) The board is authorized to obtain services from any state 2505
agency including but not limited to the department of commerce or 2506
its successor agency. 2507

(F) The board shall assemble an advisory committee of 2508
representatives from the following organizations for the purpose 2509
of receiving recommendations on policy, rules, and activities of 2510
the board: 2511

(1) The department of aging; 2512

(2) The department of rehabilitation and correction; 2513

(3) The department of development; 2514

(4) The department of job and family services; 2515

(5) The Ohio school boards association; 2516

(6) The Ohio treasurer of state's office; 2517

(7) The county treasurers association of Ohio; 2518

(8) Teachers from Ohio rural school districts; 2519

(9) Ohio college professors; 2520

(10) Ohio university professors; 2521

(11) The Ohio board of regents; 2522

(12) The Ohio community development corporations association; 2523

(13) The Ohio council for economic education; 2524

(14) The jump start youth organization; 2525

(15) The Ohio state university extension service. 2526

Sec. 1349.72. (A) In addition to any other duties imposed on 2527
the consumer finance education board by section 1349.71 of the 2528
Revised Code, the board shall: 2529

(1) Analyze and investigate, on its own initiative, the 2530
policies and practices of state agencies, nonprofit entities and 2531
businesses, inasmuch as such policies and practices address 2532
financial literacy, access by state residents to financial 2533
information, education, and resources, prevention of foreclosures 2534
and bankruptcies, and pre- and post-purchase counseling and 2535
education for homebuyers; 2536

(2) Provide an annual report and consultation and 2537
recommendations to the governor, the general assembly, state 2538
agencies, nonprofit entities and businesses based on the board's 2539
findings; 2540

(3) Coordinate and provide resources and assistance to state 2541
agencies, nonprofit entities and businesses in the furtherance of 2542
those entities' efforts to improve financial literacy, access by 2543
state residents to financial information, education, and 2544
resources, prevention of foreclosures and bankruptcies, and pre- 2545
and post-purchase counseling and education for homebuyers. 2546

(4) Provide financial assistance to Ohioans through grants 2547
funded through the reserves of the consumer finance fees section 2548
in the department of commerce and utilize these same funds to 2549
provide grants to design, develop, and implement any other 2550
programs described in this section. 2551

(5) Design a pilot program to develop a curriculum for 2552
inclusion in the education curriculum in public schools in Ohio, 2553
including but not limited to the following: 2554

(a) A course of study in the area of personal economics, 2555
including, but not limited to, instruction in financial planning, 2556
financial decision-making, and consumer credit designed to be 2557
completed in ten cumulative hours of instruction by each high 2558
school student. In developing that content, the board may use any 2559
part of the packet of high school instructional materials on 2560
personal financial responsibility developed by the department of 2561
education under section 3301.0726 of the Revised Code. 2562

(b) Programs to "train the trainer" to successfully train the 2563
instructors in public schools in Ohio to teach the curriculum. 2564

(c) A plan for determining the cost of implementing the 2565
curriculum in public schools in Ohio; 2566

(d) A plan for testing on the curriculum and obtaining and 2567
analyzing the results to determine the effectiveness of the 2568
curriculum; 2569

(e) A plan to direct the board of education of a city, 2570
exempted village, or joint vocational school district, the 2571
governing board of an educational service center, the board of a 2572
cooperative education school district established pursuant to 2573
section 3311.521 of the Revised Code, or a nonpublic school to 2574
develop an examination to determine a student's understanding of 2575
curriculum and to establish criteria for exempting students from 2576
the curriculum requirement based on the student's scores on this 2577
examination. 2578

(6) The board may receive grants from the department of 2579
commerce from the consumers finance fees collected by the 2580
department for the implementation of this section. 2581

(B) The board may assign and delegate the execution of its 2582
duties to smaller groups of its own members, which shall include 2583
committees specifically chartered to address all of the following 2584
issues: 2585

<u>(1) The financial literacy of children ages five to eighteen;</u>	2586
<u>(2) The needs of persons, ages eighteen to twenty-five, in the context of the objectives enumerated in division (A) of this section;</u>	2587 2588 2589
<u>(3) The needs of persons, classified as needy, based on a household adjusted gross income equal to less than two hundred per cent of the poverty level, as determined by the Ohio office of budget and management, or the earned income amount described in section thirty-two of the Internal Revenue Code of 1986, taking into account the size of the household, in the context of the objectives enumerated in division (A) of this section;</u>	2590 2591 2592 2593 2594 2595 2596
<u>(4) The needs of persons, previously convicted of one or more felonies, in the context of the objectives enumerated in division (A) of this section;</u>	2597 2598 2599
<u>(5) The needs of persons, characterized as vulnerable by reason of advanced age, disability, minority, or other demographic consideration, in the context of the objectives enumerated in division (A) of this section;</u>	2600 2601 2602 2603
<u>(6) Any other group or issue identified by the board as worthy of particular attention.</u>	2604 2605
<u>(C) The board shall create a pilot financial literacy and counseling program funded through the consumer finance fee funds in the department of commerce created under section 3121.21 of the Revised Code, to be operated in the five counties with the highest mortgage foreclosure rates as of the effective date of this section, completion of which shall be recommended by brokers and licensees for any consumer seeking a mortgage loan with origination fees greater than five per cent. Before a mortgage broker permits a consumer to commit to such a loan, the broker shall notify the consumer that the loan may have attributes that are predatory. No person who offers education, advice, or</u>	2606 2607 2608 2609 2610 2611 2612 2613 2614 2615 2616

counseling through the financial literacy and counseling program 2617
shall be held liable for any damages incurred from actions taken 2618
based on the education, advice, or counseling given. 2619

Sec. 3953.23. (A) Every title insurance agent shall keep 2620
books of account and record and vouchers pertaining to the 2621
business of title insurance in such manner that the title 2622
insurance company may readily ascertain from time to time whether 2623
the agent has complied with this chapter. 2624

(B) A title insurance agent may engage in the business of 2625
handling escrows of real property transactions ~~directly connected~~ 2626
~~with the business of title insurance,~~ provided that the agent 2627
shall maintain a separate record of all receipts and disbursements 2628
of escrow funds and shall not commingle any such funds with the 2629
agent's own funds or with funds held by the agent in any other 2630
capacity; and if at any time the superintendent of insurance 2631
determines that an agent has failed to comply with any of the 2632
provisions of this section, the superintendent may revoke the 2633
license of the agent pursuant to section 3905.14 of the Revised 2634
Code, subject to review as provided for in Chapter 119. of the 2635
Revised Code. ~~All agents shall be covered by a fidelity bond in an~~ 2636
~~amount and with a company satisfactory to the principal.~~ 2637

(C) All title insurance agents or agencies that handle 2638
escrows in real property transactions not involving the issuance 2639
of title insurance shall have coverage that protects the parties 2640
to such transactions against theft, misappropriation, fraud, or 2641
any other failure to properly disburse settlement, closing, or 2642
escrow funds. The superintendent shall adopt rules under Chapter 2643
119. of the Revised Code setting forth the minimum requirements 2644
for such coverage, including, but not limited to, the minimum 2645
amounts, terms, and conditions of such coverage. 2646

(D) The superintendent shall require every title insurance 2647

agent or agency and any subcontractors to maintain an errors and omissions policy, in any amount exceeding minimum limits established by the superintendent, that includes but is not limited to coverage for the agent's or agency's delegation of any agent or agency function. The superintendent shall adopt rules under Chapter 119. of the Revised Code setting forth the minimum requirements for that coverage, including but not limited to the minimum amounts, terms, and conditions of the coverage. 2648
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Sec. 3953.30. (A) As used in this section: 2656

(1) "Residential mortgage loan" means an obligation to pay a sum of money evidenced by a note and secured by a lien upon real property located within this state containing two or fewer residential units or on which two or fewer residential units are to be constructed and includes such an obligation on a residential condominium or cooperative unit. 2657
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(2) "Residential mortgage lender" means any person, including, but not limited to, banks, savings and loan associations, mortgage brokers, credit unions, or savings banks, that lends money or extends or grants credit and obtains a residential mortgage to assure payment of the debt. 2663
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(B) A title insurance agent issuing a lender's title insurance policy in conjunction with a residential mortgage loan made simultaneously with the purchase of all or part of the real property securing the loan, where no owner's title insurance policy has been requested, shall give written notice, on a form prescribed or approved by the superintendent of insurance, to the mortgagor at the time the commitment is prepared. The notice shall explain that a lender's title insurance policy is to be issued protecting the residential mortgage lender, and that the policy does not provide title insurance protection to the mortgagor as the owner of the property being purchased. The notice shall 2668
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explain what an owner's title insurance policy insures against and 2679
what possible exposures exist for the mortgagor that could be 2680
insured against through the purchase of an owner's title insurance 2681
policy. The notice shall state that the mortgagor may obtain an 2682
owner's title insurance policy protecting the mortgagor as the 2683
owner of the property, either at a specified cost or at an 2684
approximate cost if the proposed coverages or amount of insurance 2685
is not then known. The title insurance agent shall maintain a copy 2686
of the notice, signed by the mortgagor, in the relevant 2687
underwriting file for at least ten years after the effective date 2688
of the lender's title insurance policy. 2689

Sec. 3953.32. (A) At the time an order is placed with a title 2690
insurance company for issuance of a title insurance policy, the 2691
title insurance company or the title insurance agent shall offer 2692
closing or settlement protection to the lender, borrower, and 2693
seller of the property, and to any applicant for title insurance. 2694

(B) The closing or settlement protection offered pursuant to 2695
this section shall indemnify any lender, borrower, seller, and 2696
applicant that has requested the protection, both individually and 2697
collectively, against the loss of settlement funds resulting from 2698
any of the following acts of the title insurance company's named 2699
title insurance agent or anyone acting on the agent's behalf: 2700

(1) Theft, misappropriation, fraud, or any other failure to 2701
properly disburse settlement, closing, or escrow funds; 2702

(2) Failure to comply with any applicable written closing 2703
instructions, when agreed to by the title insurance agent. 2704

(C) The issuance of closing or settlement protection by a 2705
title insurance company pursuant to division (A) of this section 2706
is part of the business of title insurance for purposes of Chapter 2707
3953. of the Revised Code. 2708

(D) Except as provided in division (A) of this section, a title insurance company shall not offer or issue any coverage purporting to indemnify against a person's improper acts or omissions in connection with escrow, settlement, or closing services. 2709
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(E) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code as the superintendent considers necessary to carry out the purposes of this section, including, but not limited to, rules that detail the specific language that must be included in the written document offering closing or settlement protection as provided for in division (A) of this section. 2714
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Sec. 3953.33. (A) Every title insurance agent or agency that handles escrow, settlement, closing, or security deposit accounts shall have an annual independent review made of its escrow, settlement, closing and security deposit accounts on a calendar-year basis within ninety days after the close of the previous fiscal year. The title insurance agent or agency shall provide proof of the annual review to each title insurance company which it represents. The superintendent of insurance shall promulgate rules under Chapter 119. of the Revised Code setting forth the minimum threshold level at which a review is required, the standards of the review, the minimum qualifications of the independent party conducting the review, and the form of the report that is required. The superintendent may also require title insurance agents or agencies to provide a copy of their annual review reports to the superintendent. The annual review required by this division does not apply to interest on lawyer's trust accounts established and maintained by an attorney pursuant to sections 4705.09 and 4705.10 of the Revised Code. 2721
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(B) Title insurance agents and agencies shall allow the 2739

superintendent and each and every title insurer that they 2740
represent reasonable access to all of their escrow, settlement, 2741
closing, and security deposit accounts and any and all supporting 2742
account information in order to ascertain the safety and security 2743
of the funds held by the title insurance agent or agency. 2744

(C) Title insurance agents and agencies shall maintain 2745
sufficient records of their affairs, including their escrow 2746
operations and escrow trust accounts, so that the superintendent 2747
may adequately ensure that the title insurance agent or agency is 2748
in compliance of this chapter. Records kept pursuant to this 2749
section shall be kept for a period of not less than ten years 2750
following the transactions to which the records relate. The 2751
superintendent may prescribe the specific records and documents to 2752
be kept. 2753

Sec. 4735.05. (A) The Ohio real estate commission is a part 2754
of the department of commerce for administrative purposes. The 2755
director of commerce is ex officio the executive officer of the 2756
commission, or the director may designate any employee of the 2757
department as superintendent of real estate and professional 2758
licensing to act as executive officer of the commission. 2759

The commission and the real estate appraiser board created 2760
pursuant to section 4763.02 of the Revised Code shall each submit 2761
to the director a list of three persons whom the commission and 2762
the board consider qualified to be superintendent within sixty 2763
days after the office of superintendent becomes vacant. The 2764
director shall appoint a superintendent from the lists submitted 2765
by the commission and the board, and the superintendent shall 2766
serve at the pleasure of the director. 2767

(B) The superintendent, except as otherwise provided, shall 2768
do all of the following in regard to this chapter: 2769

(1) Administer this chapter;	2770
(2) Issue all orders necessary to implement this chapter;	2771
(3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee;	2772 2773
(4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators or auditors have the right to review and audit the business records of licensees and continuing education course providers during normal business hours.	2774 2775 2776 2777 2778 2779 2780
(5) Appoint a hearing examiner for any proceeding involving disciplinary action under section 3123.47 or 4735.18 of the Revised Code;	2781 2782 2783
(6) Administer the real estate recovery fund.	2784
(C) The superintendent may do all of the following:	2785
(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;	2786 2787 2788
(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.	2789 2790 2791 2792 2793
(3) Upon the death of a licensed broker or the revocation or suspension of the broker's license, if there is no other licensed broker within the business entity of the broker, appoint upon application by any interested party, or, in the case of a deceased broker, subject to the approval by the appropriate probate court, recommend the appointment of, an ancillary trustee who is	2794 2795 2796 2797 2798 2799

qualified as determined by the superintendent to conclude the 2800
business transactions of the deceased, revoked, or suspended 2801
broker; 2802

(4) In conjunction with the enforcement of this chapter, when 2803
the superintendent of real estate has reasonable cause to believe 2804
that an applicant or licensee has committed a criminal offense, 2805
the superintendent of real estate may request the superintendent 2806
of the bureau of criminal identification and investigation to 2807
conduct a criminal records check of the applicant or licensee. The 2808
superintendent of the bureau of criminal identification and 2809
investigation shall obtain information from the federal bureau of 2810
investigation as part of the criminal records check of the 2811
applicant or licensee. The superintendent of real estate may 2812
assess the applicant or licensee a fee equal to the fee assessed 2813
for the criminal records check. 2814

(D) All information that is obtained by investigators and 2815
auditors performing investigations or conducting inspections, 2816
audits, and other inquiries pursuant to division (B)(4) of this 2817
section, from licensees, complainants, or other persons, and all 2818
reports, documents, and other work products that arise from that 2819
information and that are prepared by the investigators, auditors, 2820
or other personnel of the department, shall be held in confidence 2821
by the superintendent, the investigators and auditors, and other 2822
personnel of the department. Notwithstanding division (D) of 2823
section 2317.023 of the Revised Code, all information obtained by 2824
investigators or auditors from an informal mediation meeting held 2825
pursuant to section 4735.051 of the Revised Code, including but 2826
not limited to the agreement to mediate and the accommodation 2827
agreement, shall be held in confidence by the superintendent, 2828
investigators, auditors, and other personnel of the department. 2829

(E) This section does not prevent the division of real estate 2830
and professional licensing from releasing information relating to 2831

licensees to the superintendent of financial institutions for 2832
purposes relating to the administration of sections 1322.01 to 2833
1322.12 of the Revised Code, to the superintendent of insurance 2834
for purposes relating to the administration of Chapter 3953. of 2835
the Revised Code, to the attorney general, or to local law 2836
enforcement agencies and local prosecutors. Information released 2837
by the division pursuant to this section remains confidential. 2838

Sec. 4763.03. (A) In addition to any other duties imposed on 2839
the real estate appraiser board under this chapter, the board 2840
shall: 2841

(1) Adopt rules, in accordance with Chapter 119. of the 2842
Revised Code, in furtherance of this chapter, including, but not 2843
limited to, all of the following: 2844

(a) Defining, with respect to state-certified general real 2845
estate appraisers, state-certified residential real estate 2846
appraisers, and state-licensed residential real estate appraisers, 2847
the type of educational experience, appraisal experience, and 2848
other equivalent experience that satisfy the requirements of this 2849
chapter. The rules shall require that all appraisal experience 2850
performed after January 1, 1996, meet the uniform standards of 2851
professional practice established by the appraisal foundation. 2852

(b) Establishing the examination specifications for 2853
state-certified general real estate appraisers, state-certified 2854
residential real estate appraisers, and state-licensed residential 2855
real estate appraisers; 2856

(c) Relating to disciplinary proceedings conducted in 2857
accordance with section 4763.11 of the Revised Code, including 2858
rules governing the reinstatement of certificates, registrations, 2859
and licenses that have been suspended pursuant to those 2860
proceedings; 2861

(d) Identifying any additional information to be included on 2862
the forms specified in division (C) of section 4763.12 of the 2863
Revised Code, provided that the rules shall not require any less 2864
information than is required in that division; 2865

(e) Establishing the fees set forth in section 4763.09 of the 2866
Revised Code; 2867

(f) Establishing the amount of the assessment required by 2868
division (A)(2) of section 4763.05 of the Revised Code. The board 2869
annually shall determine the amount due from each applicant for an 2870
initial certificate, registration, and license in an amount that 2871
will maintain the real estate appraiser recovery fund at the level 2872
specified in division (A) of section 4763.16 of the Revised Code. 2873
The board may, if the fund falls below that amount, require 2874
current certificate holders, registrants, and licensees to pay an 2875
additional assessment. 2876

(g) Defining, with respect to state-registered real estate 2877
appraiser assistants, the educational and experience requirements 2878
of division (C)(1)(d) of section 4763.05 of the Revised Code; 2879

(h) Establishing a real estate appraiser assistant program 2880
for the registration of real estate appraiser assistants. 2881

(2) Provide or procure appropriate examination questions and 2882
answers for the examinations required by division (D) of section 2883
4763.05 of the Revised Code, and establish the criteria for 2884
successful completion of those examinations; 2885

(3) Periodically review the standards for preparation and 2886
reporting of real estate appraisals provided in this chapter and 2887
adopt rules explaining and interpreting those standards; 2888

(4) Hear appeals, pursuant to Chapter 119. of the Revised 2889
Code, from decisions and orders the superintendent of real estate 2890
issues pursuant to this chapter; 2891

(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;	2892 2893 2894
(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.	2895 2896 2897 2898
(B) In addition to any other duties imposed on the superintendent of real estate under this chapter, the superintendent shall:	2899 2900 2901
(1) Prescribe the form and content of all applications required by this chapter;	2902 2903
(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;	2904 2905 2906 2907
(3) Retain records and all application materials submitted to the superintendent;	2908 2909
(4) Establish the time and place for conducting the examinations required by division (D) of section 4763.05 of the Revised Code;	2910 2911 2912
(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;	2913 2914 2915
(6) Perform any other functions and duties, including the employment of staff, necessary to administer this chapter;	2916 2917
(7) Administer this chapter;	2918
(8) Issue all orders necessary to implement this chapter;	2919
(9) Investigate complaints, upon the superintendent's own	2920

motion or upon receipt of a complaint or upon a request of the board, concerning any violation of this chapter or the rules adopted pursuant thereto or the conduct of any person holding a certificate, registration, or license issued pursuant to this chapter;

(10) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators and auditors have the right to review and audit the business records of certificate holders, registrants, and licensees during normal business hours. The superintendent may utilize the investigators and auditors employed pursuant to division (B)(4) of section 4735.05 of the Revised Code or currently licensed certificate holders or licensees to assist in performing the duties of this division.

(11) Appoint a referee or examiner for any proceeding involving the revocation or suspension of a certificate, registration, or license under section 3123.47 or 4763.11 of the Revised Code;

(12) Administer the real estate appraiser recovery fund;

(13) Conduct the examinations required by division (D) of section 4763.05 of the Revised Code at least four times per year.

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

(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4763.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate this chapter, the court shall

grant an injunction, restraining order, or other appropriate relief, or any combination thereof. 2951
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(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(10) of this section, from certificate holders, registrants, licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department of commerce, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department. 2953
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(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to certificate holders, registrants, and licensees to the superintendent of financial institutions for purposes relating to the administration of sections 1322.01 to 1322.12 of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to local law enforcement agencies and local prosecutors. Information released by the division pursuant to this section remains confidential. 2963
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Sec. 4763.05. (A)(1)(a) A person shall make application for an initial state-certified general real estate appraiser certificate, an initial state-certified residential real estate appraiser certificate, an initial state-licensed residential real estate appraiser license, or an initial state-registered real estate appraiser assistant registration in writing to the superintendent of real estate on a form the superintendent prescribes. The application shall include the address of the applicant's principal place of business and all other addresses at 2973
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which the applicant currently engages in the business of preparing 2982
real estate appraisals and the address of the applicant's current 2983
residence. The superintendent shall retain the applicant's current 2984
residence address in a separate record which shall not constitute 2985
a public record for purposes of section 149.03 of the Revised 2986
Code. The application shall indicate whether the applicant seeks 2987
certification as a general real estate appraiser or as a 2988
residential real estate appraiser, licensure as a residential real 2989
estate appraiser, or registration as a real estate appraiser 2990
assistant and be accompanied by the prescribed examination and 2991
certification, registration, or licensure fees set forth in 2992
section 4763.09 of the Revised Code. The application also shall 2993
include a fingerprint of the applicant; a pledge, signed by the 2994
applicant, that the applicant will comply with the standards set 2995
forth in this chapter; and a statement that the applicant 2996
understands the types of misconduct for which disciplinary 2997
proceedings may be initiated against the applicant pursuant to 2998
this chapter. 2999

(b) Upon the filing of an application and payment of any 3000
examination and certification, registration, or licensure fees,
the superintendent of real estate shall request the superintendent
of the bureau of criminal identification and investigation, or a
vendor approved by the bureau, to conduct a criminal records check
based on the applicant's fingerprints in accordance with division
(A)(11) of section 109.572 of the Revised Code. Notwithstanding
division (J) of section 121.08 of the Revised Code, the
superintendent of real estate shall request that criminal record
information from the federal bureau of investigation be obtained
as part of the criminal records check. Any fee required under
division (C)(3) of section 109.572 of the Revised Code shall be
paid by the applicant. 3012

(2) For purposes of providing funding for the real estate 3013

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 or a minimum of
two years of classroom instruction and an associate's degree in
the field of real estate and real estate appraisal at an
institution of higher education. 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 3046
shall be at least eighteen years of age, honest, truthful, and of 3047
good reputation and shall present satisfactory evidence to the 3048
superintendent of the following, as appropriate: 3049

(a) If the applicant is seeking a state-certified general 3050
real estate appraiser certificate, that the applicant has 3051
successfully completed at least one hundred sixty-five classroom 3052
hours of courses in subjects related to real estate appraisal, 3053
including at least one course devoted exclusively to federal, 3054
state, and municipal fair housing law, presented by a nationally 3055
recognized appraisal organization, an institution of higher 3056
education, a career school registered by the state board of career 3057
colleges and schools, a state or federal commission or agency, or 3058
any other organization that represents the interests of financial 3059
institutions or real estate brokers, appraisers, or agents and 3060
that provides appraisal education, plus fifteen classroom hours 3061
related to standards of professional practice and the provisions 3062
of this chapter; 3063

(b) If the applicant is seeking a state-certified residential 3064
real estate appraiser certificate, that the applicant has 3065
successfully completed at least one hundred five classroom hours 3066
of courses in subjects related to real estate appraisal, including 3067
at least one course devoted exclusively to federal, state, and 3068
municipal fair housing law, presented by a nationally recognized 3069
appraisal organization, an institution of higher education, a 3070
career school registered by the state board of career colleges and 3071
schools, or any other organization that represents the interests 3072
of financial institutions or real estate brokers, appraisers, or 3073
agents and that provides appraisal education, plus fifteen 3074
classroom hours related to standards of professional practice and 3075
the provisions of this chapter; 3076

(c) If the applicant is seeking a state-licensed residential 3077

real estate appraiser license, that the applicant has successfully 3078
completed at least seventy-five classroom hours of courses in 3079
subjects related to real estate appraisal, including at least one 3080
course devoted exclusively to federal, state, and municipal fair 3081
housing law, presented by a nationally recognized appraisal 3082
organization, an institution of higher education, a career school 3083
registered by the state board of career colleges and schools, a 3084
state or federal commission or agency, or any other organization 3085
that represents the interests of financial institutions or real 3086
estate brokers, appraisers, or agents and that provides appraisal 3087
education, plus fifteen classroom hours related to standards of 3088
professional practice and the provisions of this chapter; 3089

(d) If the applicant is seeking a state-registered real 3090
estate appraiser assistant registration, that the applicant has 3091
successfully completed at least seventy-five classroom hours of 3092
courses in subjects related to real estate appraisal, including at 3093
least one course devoted exclusively to federal, state, and 3094
municipal fair housing law, presented by a nationally recognized 3095
appraisal organization, an institution of higher education, a 3096
career school registered by the state board of career colleges and 3097
schools, or any other organization that represents the interests 3098
of financial institutions or real estate brokers, appraisers, or 3099
agents, and that provides appraisal education that included at 3100
least fifteen classroom hours of instruction related to standards 3101
of professional practice and the requirements of this chapter and 3102
the rules adopted under this chapter. 3103

(2) Each person who files an application for an initial 3104
certificate or license within one year of the date established by 3105
the board as the first date on which applications will be accepted 3106
under this section, which date shall be no later than September 1, 3107
1990, and who, at the time of filing that application, does not 3108
satisfy the educational requirements for the certification or 3109

licensure sought of either division (C)(1)(a) or (b) of this 3110
section is exempt from those educational requirements for the term 3111
of the initial certification or licensure. In applying for a 3112
renewal certificate or license pursuant to section 4763.06 of the 3113
Revised Code, a certificate holder or licensee who was exempted 3114
from the educational requirements of division (C)(1)(a) or (b) of 3115
this section when applying for the initial certificate or license 3116
shall present satisfactory evidence to the superintendent that the 3117
certificate holder or licensee has completed the educational 3118
requirements for the certification or licensure to be renewed of 3119
one of those divisions before the renewal certificate or license 3120
may be issued. 3121

(D) An applicant for an initial general real estate appraiser 3122
or residential real estate appraiser certificate or residential 3123
real estate appraiser license shall take and successfully complete 3124
a written examination in order to qualify for the certificate or 3125
license. The examination shall require the applicant to 3126
demonstrate all of the following: 3127

(1) Appropriate knowledge of technical terms commonly used in 3128
or related to real estate appraising, appraisal report writing, 3129
and the economic concepts applicable to real estate; 3130

(2) Understanding of the principles of land economics, real 3131
estate appraisal processes, and problems likely to be encountered 3132
in gathering, interpreting, and processing of data in carrying out 3133
appraisal disciplines; 3134

(3) Understanding of the standards for the development and 3135
communication of real estate appraisals as provided in this 3136
chapter and the rules adopted thereunder; 3137

(4) Knowledge of theories of depreciation, cost estimating, 3138
methods of capitalization, direct sales comparison, and the 3139
mathematics of real estate appraisal that are appropriate for the 3140

certification or licensure for which the applicant has applied;	3141
(5) Knowledge of other principles and procedures as	3142
appropriate for the certification or license;	3143
(6) Basic understanding of real estate law;	3144
(7) Understanding of the types of misconduct for which	3145
disciplinary proceedings may be initiated against a certificate	3146
holder and licensee.	3147
(E)(1) A nonresident, natural person of this state who has	3148
complied with this section may obtain a certificate, registration,	3149
or license. The board shall adopt rules relating to the	3150
certification, registration, and licensure of a nonresident	3151
applicant whose state of residence the board determines to have	3152
certification, registration, or licensure requirements that are	3153
substantially similar to those set forth in this chapter and the	3154
rules adopted thereunder.	3155
(2) The board shall recognize on a temporary basis a	3156
certification or license issued in another state and shall	3157
register on a temporary basis an appraiser who is certified or	3158
licensed in another state if all of the following apply:	3159
(a) The temporary registration is to perform an appraisal	3160
assignment that is part of a federally related transaction + .	3161
(b) The appraiser's business in this state is of a temporary	3162
nature + .	3163
(c) The appraiser registers with the board pursuant to this	3164
division.	3165
An appraiser who is certified or licensed in another state	3166
shall register with the board for temporary practice before	3167
performing an appraisal assignment in this state in connection	3168
with a federally related transaction.	3169
The board shall adopt rules relating to registration for the	3170

temporary recognition of certification and licensure of appraisers 3171
from another state. The registration for temporary recognition of 3172
certified or licensed appraisers from another state shall not 3173
authorize completion of more than one appraisal assignment in this 3174
state. The board shall not issue more than two registrations for 3175
temporary practice to any one applicant in any calendar year. 3176

(3) In addition to any other information required to be 3177
submitted with the nonresident applicant's or appraiser's 3178
application for a certificate, registration, license, or temporary 3179
recognition of a certificate or license, each nonresident 3180
applicant or appraiser shall submit a statement consenting to the 3181
service of process upon the nonresident applicant or appraiser by 3182
means of delivering that process to the secretary of state if, in 3183
an action against the applicant, certificate holder, registrant, 3184
or licensee arising from the applicant's, certificate holder's, 3185
registrant's, or licensee's activities as a certificate holder, 3186
registrant, or licensee, the plaintiff, in the exercise of due 3187
diligence, cannot effect personal service upon the applicant, 3188
certificate holder, registrant, or licensee. 3189

(F) The superintendent shall not issue a certificate, 3190
registration, or license to, or recognize on a temporary basis an 3191
appraiser from another state that is a corporation, partnership, 3192
or association. This prohibition shall not be construed to prevent 3193
a certificate holder or licensee from signing an appraisal report 3194
on behalf of a corporation, partnership, or association. 3195

(G) Every person licensed, registered, or certified under 3196
this chapter shall notify the superintendent, on a form provided 3197
by the superintendent, of a change in the address of the 3198
licensee's, registrant's, or certificate holder's principal place 3199
of business or residence within thirty days of the change. If a 3200
licensee's, registrant's, or certificate holder's license, 3201
registration, or certificate is revoked or not renewed, the 3202

licensee, registrant, or certificate holder immediately shall 3203
return the annual and any renewal certificate, registration, or 3204
license to the superintendent. 3205

(H)(1) The superintendent shall not issue a certificate, 3206
registration, or license to any person, or recognize on a 3207
temporary basis an appraiser from another state, who does not meet 3208
applicable minimum criteria for state certification, registration, 3209
or licensure prescribed by federal law or rule. 3210

(2) The superintendent shall not issue a general real estate 3211
appraiser certificate, residential real estate appraiser 3212
certificate, residential real estate appraiser license, or real 3213
estate appraiser assistant registration to any person who has been 3214
convicted of or pleaded guilty to any criminal offense involving 3215
theft, receiving stolen property, embezzlement, forgery, fraud, 3216
passing bad checks, money laundering, or drug trafficking, or any 3217
criminal offense involving money or securities, including a 3218
violation of an existing or former law of this state, any other 3219
state, or the United States that substantially is equivalent to 3220
such an offense. However, if the applicant has pleaded guilty to 3221
or been convicted of such an offense, the superintendent shall not 3222
consider the offense if the applicant has proven to the 3223
superintendent, by a preponderance of the evidence, that the 3224
applicant's activities and employment record since the conviction 3225
show that the applicant is honest, truthful, and of good 3226
reputation, and there is no basis in fact for believing that the 3227
applicant will commit such an offense again. 3228

Sec. 4763.06. (A) A person licensed, registered, or certified 3229
under this chapter may obtain a renewal certificate, registration, 3230
or license by filing a renewal application with and paying the 3231
renewal fee set forth in section 4763.09 of the Revised Code and 3232
any amount assessed pursuant to division (A)(2) of section 4763.05 3233

of the Revised Code to the superintendent of real estate. The 3234
renewal application shall include a statement, signed by the 3235
certificate holder, registrant, or licensee, that the certificate 3236
holder, registrant, or licensee has not, during the immediately 3237
preceding twelve-month period, been convicted of or pleaded guilty 3238
to any criminal offense described in division (H)(2) of section 3239
4763.05 of the Revised Code. The certificate holder, registrant, 3240
or licensee shall file the renewal application at least thirty 3241
days, but no earlier than one hundred twenty days, prior to 3242
expiration of the certificate holder's, registrant's, or 3243
licensee's current certificate, registration, or license. A 3244
certificate holder or licensee who applies for a renewal 3245
certificate or license who, pursuant to division (C)(2) of section 3246
4763.05 of the Revised Code, was exempted from the educational 3247
requirements of division (C)(1) of that section during the term of 3248
the initial certificate or license, as a condition of renewal, 3249
also shall present satisfactory evidence of having completed the 3250
appropriate educational requirements of either division (C)(1)(a) 3251
or (b) of that section since the effective date of the initial 3252
certificate or license. 3253

(B) A certificate holder, registrant, or licensee who fails 3254
to renew a certificate, registration, or license prior to its 3255
expiration is ineligible to obtain a renewal certificate, 3256
registration, or license and shall comply with section 4763.05 of 3257
the Revised Code in order to regain ~~his~~ certification or 3258
licensure, except that a certificate holder, registrant, or 3259
licensee may, within three months after the expiration of the 3260
certificate holder's, registrant's, or licensee's certificate, 3261
registration, or license, renew the certificate, registration, or 3262
license without having to comply with section 4763.05 of the 3263
Revised Code by payment of all fees for renewal and payment of the 3264
late filing fee set forth in section 4763.09 of the Revised Code. 3265
A certificate holder, registrant, or licensee who applies for late 3266

renewal of the certificate holder's, registrant's, or licensee's 3267
certificate, registration, or license may engage in all activities 3268
permitted by the certification, registration, or license being 3269
renewed for the three-month period following the certificate's, 3270
registration's, or license's normal expiration date. 3271

Sec. 4763.12. (A) A person licensed or certified under this 3272
chapter may be retained or employed to act as a disinterested 3273
third party in rendering an unbiased valuation or analysis of real 3274
estate or to provide specialized services to facilitate the client 3275
or employer's objectives. An appraisal or appraisal report 3276
rendered by a certificate holder or licensee shall comply with 3277
this chapter. A certified appraisal or certified appraisal report 3278
represents to the public that it satisfies the standards set forth 3279
in this chapter. 3280

(B) No certificate holder or licensee shall accept a fee for 3281
an appraisal assignment that is contingent, in whole or in part, 3282
upon the reporting of a predetermined estimate, analysis, or 3283
opinion or upon the opinion, conclusion, or valuation reached, or 3284
upon consequences resulting from the appraisal assignment. A 3285
certificate holder or licensee who enters into an agreement to 3286
provide specialized services may charge a fixed fee or a fee that 3287
is contingent upon the results achieved by the specialized 3288
services, provided that this fact is clearly stated in each oral 3289
report rendered pursuant to the agreement, and the existence of 3290
the contingent fee arrangement is clearly stated in a prominent 3291
place on each written report and in each letter of transmittal and 3292
certification statement made by the certificate holder or licensee 3293
within that report. 3294

(C) Every written report rendered by a certificate holder or 3295
licensee in conjunction with an appraisal assignment or 3296
specialized service performed shall include the following 3297

information:	3298
(1) The name of the certificate holder or licensee;	3299
(2) The class of certification or licensure held by and the certification or licensure number of the certificate holder or licensee;	3300 3301 3302
(3) Whether the appraisal or specialized service is performed within the scope of the certificate holder's or licensee's certification or licensure;	3303 3304 3305
(4) Whether the appraisal or specialized service is provided by a certificate holder or licensee as a disinterested and unbiased third party or as a person on an interested and biased basis or as an interested third party on a contingent fee basis;	3306 3307 3308 3309
(5) The signature of the person preparing and reporting the appraisal or specialized service.	3310 3311
If the certificate holder or licensee provides an oral real estate appraisal or specialized service, the certificate holder or licensee shall send, within seven days of providing the oral report, a form to the client containing the appropriate information specified in this division and the rules adopted pursuant thereto <u>to this division</u> .	3312 3313 3314 3315 3316 3317
(D) Nothing in this chapter shall be construed as requiring a certificate holder or licensee to provide a client with a copy of any writing prepared in support of an oral appraisal report except as provided in division (C) of this section or as agreed to between the certificate holder or licensee and the certificate holder's or licensee's client.	3318 3319 3320 3321 3322 3323
<u>(E) No person shall knowingly instruct, influence, bribe, coerce, or extort a certificate holder or licensee for the purpose of corrupting or improperly influencing the independent judgment of the certificate holder or licensee. However, a lender, mortgage</u>	3324 3325 3326 3327

banker, or mortgage broker shall not be prohibited from asking the 3328
appraiser to consider additional appropriate property information, 3329
to provide further detail, substantiation, or explanation for the 3330
appraiser's value conclusion, or to correct errors in the 3331
appraisal report. 3332

(F) A copy of every written report rendered by a certificate 3333
holder or licensee pursuant to division (C) of this section, when 3334
resulting from an application for a mortgage loan, shall be 3335
provided to the person applying for the mortgage, and shall be 3336
accompanied by a copy of the current appraisal of real property as 3337
done by the auditor of the country wherein the property is 3338
located. 3339

Sec. 4763.13. (A) In engaging in appraisal activities, a 3340
person certified, registered, or licensed under this chapter shall 3341
comply with the applicable standards prescribed by the board of 3342
governors of the federal reserve system, the federal deposit 3343
insurance corporation, the comptroller of the currency, the office 3344
of thrift supervision, the national credit union administration, 3345
and the resolution trust corporation in connection with federally 3346
related transactions under the jurisdiction of the applicable 3347
agency or instrumentality. A certificate holder, registrant, and 3348
licensee also shall comply with the uniform standards of 3349
professional appraisal practice, as adopted by the appraisal 3350
standards board of the appraisal foundation and such other 3351
standards adopted by the real estate appraiser board, to the 3352
extent that those standards do not conflict with applicable 3353
federal standards in connection with a particular federally 3354
related transaction. 3355

(B) The terms "state-licensed residential real estate 3356
appraiser," "state-certified residential real estate appraiser," 3357
"state-certified general real estate appraiser," and 3358

"state-registered real estate appraiser assistant" shall be used 3359
to refer only to those persons who have been issued the applicable 3360
certificate, registration, or license or renewal certificate, 3361
registration, or license pursuant to this chapter. None of these 3362
terms shall be used following or in connection with the name or 3363
signature of a partnership, corporation, or association or in a 3364
manner that could be interpreted as referring to a person other 3365
than the person to whom the certificate, registration, or license 3366
has been issued. No person shall fail to comply with this 3367
division. 3368

(C) No person, other than a certificate holder, a registrant, 3369
or a licensee, shall assume or use a title, designation, or 3370
abbreviation that is likely to create the impression that the 3371
person possesses certification, registration, or licensure under 3372
this chapter, provided that professional designations containing 3373
the term "certified appraiser" and being used on or before July 3374
26, 1989, shall not be construed as being misleading under this 3375
division. No person other than a person certified or licensed 3376
under this chapter shall describe or refer to an appraisal or 3377
other evaluation of real estate located in this state as being 3378
certified. 3379

(D) The terms "state-certified or state-licensed real estate 3380
appraisal report," "state-certified or state-licensed appraisal 3381
report," or "state-certified or state-licensed appraisal" shall be 3382
used to refer only to those real estate appraisals conducted by a 3383
certificate holder or licensee as a disinterested and unbiased 3384
third party provided that the certificate holder or licensee 3385
provides certification with the appraisal and provided further 3386
that if a licensee is providing the appraisal, such terms shall 3387
only be used if the licensee is acting within the scope of the 3388
licensee's license. No person shall fail to comply with this 3389
division. 3390

(E) Nothing in this chapter shall preclude a partnership, 3391
corporation, or association which employs or retains the services 3392
of a certificate holder or licensee to advertise that the 3393
partnership, corporation, or association offers state-certified or 3394
state-licensed appraisals through a certificate holder or licensee 3395
if the advertisement clearly states such fact in accordance with 3396
guidelines for such advertisements established by rule of the real 3397
estate appraiser board. 3398

(F) ~~Nothing~~ Except as otherwise provided in section 4763.19 3399
of the Revised Code, nothing in this chapter shall preclude a 3400
person who is not licensed or certified under this chapter from 3401
appraising real estate for compensation. 3402

Sec. 4763.19. (A) Subject to division (B) of this section, no 3403
person shall perform a real estate appraisal for a mortgage loan 3404
if the person is not licensed or certified under this chapter to 3405
do the appraisal. 3406

(B) Division (A) of this section does not apply to a lender 3407
using a market analysis or price opinion, an internal valuation 3408
analysis, or an automated valuation model or report based on an 3409
automated valuation model, and any person providing that report to 3410
the lender, in performing a valuation for purposes of a loan 3411
application, as long as the lender does both of the following: 3412

(1) Gives the consumer loan applicant a copy of any written 3413
market analysis or price opinion or valuation report based on an 3414
automated valuation model; 3415

(2) Includes a disclaimer on the consumer's copy specifying 3416
that the valuation used for purposes of the application was 3417
obtained from a market analysis or price opinion or automated 3418
valuation model report and not from a person licensed or certified 3419
under this chapter. 3420

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

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

Section 2. That existing sections 109.572, 1321.57, 1322.02, 1322.03, 1322.031, 1322.04, 1322.041, 1322.051, 1322.06, 1322.061, 1322.062, 1322.07, 1322.10, 1322.11, 1322.99, 1343.011, 1349.25, 1349.31, 3953.23, 4735.05, 4763.03, 4763.05, 4763.06, 4763.12, 4763.13, and 4763.99 of the Revised Code are hereby repealed.

Section 3. This act shall take effect January 1, 2007.

Section 4. Section 109.572 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 11 and Am. Sub. H.B. 117 of the 125th General Assembly and Am. Sub. H.B. 68 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.