

**As Reported by the House Financial Institutions, Real Estate and
Securities Committee**

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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**

—

A BILL

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, 1349.25, 1349.27, 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
and pre-licensure examination; to require title 24
insurance agents to notify purchasers of the 25
availability of owner's title insurance when 26
issuing lender's title insurance in conjunction 27
with a residential mortgage loan and to explain 28
what owner's title insurance covers; to require 29
title insurance agents to maintain errors and 30
omissions insurance; to authorize title insurers 31
to issue settlement protection; and to make other 32
changes relative to mortgage lending. 33

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

Section 1. That sections 109.572, 1321.57, 1322.02, 1322.03, 34
1322.031, 1322.04, 1322.041, 1322.051, 1322.06, 1322.061, 35
1322.062, 1322.07, 1322.10, 1322.11, 1322.99, 1349.25, 1349.27 36
1349.31, 3953.23, 4735.05, 4763.03, 4763.05, 4763.06, 4763.12, 37
4763.13, and 4763.99 be amended and sections 1321.541, 1322.063, 38
1322.064, 1322.074, 1322.075, 1322.081, 1349.38, 1349.39, 1349.40, 39
1349.41, 1349.42, 1349.43, 1349.44, 1349.71, 1349.72, 3953.30, 40
3953.32, 3953.33, and 4763.19 of the Revised Code be enacted to 41
read as follows: 42

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 43
section 121.08, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013, or 44
5153.111 of the Revised Code, a completed form prescribed pursuant 45
to division (C)(1) of this section, and a set of fingerprint 46
impressions obtained in the manner described in division (C)(2) of 47

this section, the superintendent of the bureau of criminal 48
identification and investigation shall conduct a criminal records 49
check in the manner described in division (B) of this section to 50
determine whether any information exists that indicates that the 51
person who is the subject of the request previously has been 52
convicted of or pleaded guilty to any of the following: 53

(a) A violation of section 2903.01, 2903.02, 2903.03, 54
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 55
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 56
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 57
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 58
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 59
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 60
2925.06, or 3716.11 of the Revised Code, felonious sexual 61
penetration in violation of former section 2907.12 of the Revised 62
Code, a violation of section 2905.04 of the Revised Code as it 63
existed prior to July 1, 1996, a violation of section 2919.23 of 64
the Revised Code that would have been a violation of section 65
2905.04 of the Revised Code as it existed prior to July 1, 1996, 66
had the violation been committed prior to that date, or a 67
violation of section 2925.11 of the Revised Code that is not a 68
minor drug possession offense; 69

(b) A violation of an existing or former law of this state, 70
any other state, or the United States that is substantially 71
equivalent to any of the offenses listed in division (A)(1)(a) of 72
this section. 73

(2) On receipt of a request pursuant to section 5123.081 of 74
the Revised Code with respect to an applicant for employment in 75
any position with the department of mental retardation and 76
developmental disabilities, pursuant to section 5126.28 of the 77
Revised Code with respect to an applicant for employment in any 78
position with a county board of mental retardation and 79

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:

(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;

(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.

(3) On receipt of a request pursuant to section 173.41,
3712.09, 3721.121, or 3722.151 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 employment in a position that involves providing direct care 112
to an older adult. The superintendent shall conduct the criminal 113
records check in the manner described in division (B) of this 114
section to determine whether any information exists that indicates 115
that the person who is the subject of the request previously has 116
been convicted of or pleaded guilty to any of the following: 117

(a) A violation of section 2903.01, 2903.02, 2903.03, 118
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 119
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 120
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 121
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 122
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 123
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 124
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 125
2925.22, 2925.23, or 3716.11 of the Revised Code; 126

(b) An existing or former law of this state, any other state, 127
or the United States that is substantially equivalent to any of 128
the offenses listed in division (A)(3)(a) of this section. 129

(4) On receipt of a request pursuant to section 3701.881 of 130
the Revised Code with respect to an applicant for employment with 131
a home health agency as a person responsible for the care, 132
custody, or control of a child, a completed form prescribed 133
pursuant to division (C)(1) of this section, and a set of 134
fingerprint impressions obtained in the manner described in 135
division (C)(2) of this section, the superintendent of the bureau 136
of criminal identification and investigation shall conduct a 137
criminal records check. The superintendent shall conduct the 138
criminal records check in the manner described in division (B) of 139
this section to determine whether any information exists that 140
indicates that the person who is the subject of the request 141
previously has been convicted of or pleaded guilty to any of the 142
following: 143

(a) A violation of section 2903.01, 2903.02, 2903.03, 144
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 145
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 146
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 147
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 148
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 149
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 150
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 151
violation of section 2925.11 of the Revised Code that is not a 152
minor drug possession offense; 153

(b) An existing or former law of this state, any other state, 154
or the United States that is substantially equivalent to any of 155
the offenses listed in division (A)(4)(a) of this section. 156

(5) On receipt of a request pursuant to section 5111.95 or 157
5111.96 of the Revised Code with respect to an applicant for 158
employment with a waiver agency participating in a department of 159
job and family services administered home and community-based 160
waiver program or an independent provider participating in a 161
department administered home and community-based waiver program in 162
a position that involves providing home and community-based waiver 163
services to consumers with disabilities, a completed form 164
prescribed pursuant to division (C)(1) of this section, and a set 165
of fingerprint impressions obtained in the manner described in 166
division (C)(2) of this section, the superintendent of the bureau 167
of criminal identification and investigation shall conduct a 168
criminal records check. The superintendent shall conduct the 169
criminal records check in the manner described in division (B) of 170
this section to determine whether any information exists that 171
indicates that the person who is the subject of the request 172
previously has been convicted of or pleaded guilty to any of the 173
following: 174

(a) A violation of section 2903.01, 2903.02, 2903.03, 175

2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 176
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 177
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 178
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 179
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 180
2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 181
2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 182
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 183
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 184
Revised Code, felonious sexual penetration in violation of former 185
section 2907.12 of the Revised Code, a violation of section 186
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 187
violation of section 2919.23 of the Revised Code that would have 188
been a violation of section 2905.04 of the Revised Code as it 189
existed prior to July 1, 1996, had the violation been committed 190
prior to that date; 191

(b) An existing or former law of this state, any other state, 192
or the United States that is substantially equivalent to any of 193
the offenses listed in division (A)(5)(a) of this section. 194

(6) On receipt of a request pursuant to section 3701.881 of 195
the Revised Code with respect to an applicant for employment with 196
a home health agency in a position that involves providing direct 197
care to an older adult, a completed form prescribed pursuant to 198
division (C)(1) of this section, and a set of fingerprint 199
impressions obtained in the manner described in division (C)(2) of 200
this section, the superintendent of the bureau of criminal 201
identification and investigation shall conduct a criminal records 202
check. The superintendent shall conduct the criminal records check 203
in the manner described in division (B) of this section to 204
determine whether any information exists that indicates that the 205
person who is the subject of the request previously has been 206
convicted of or pleaded guilty to any of the following: 207

(a) A violation of section 2903.01, 2903.02, 2903.03, 208
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 209
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 210
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 211
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 212
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 213
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 214
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 215
2925.22, 2925.23, or 3716.11 of the Revised Code; 216

(b) An existing or former law of this state, any other state, 217
or the United States that is substantially equivalent to any of 218
the offenses listed in division (A)(6)(a) of this section. 219

(7) When conducting a criminal records check upon a request 220
pursuant to section 3319.39 of the Revised Code for an applicant 221
who is a teacher, in addition to the determination made under 222
division (A)(1) of this section, the superintendent shall 223
determine whether any information exists that indicates that the 224
person who is the subject of the request previously has been 225
convicted of or pleaded guilty to any offense specified in section 226
3319.31 of the Revised Code. 227

(8) On a request pursuant to section 2151.86 of the Revised 228
Code, a completed form prescribed pursuant to division (C)(1) of 229
this section, and a set of fingerprint impressions obtained in the 230
manner described in division (C)(2) of this section, the 231
superintendent of the bureau of criminal identification and 232
investigation shall conduct a criminal records check in the manner 233
described in division (B) of this section to determine whether any 234
information exists that indicates that the person who is the 235
subject of the request previously has been convicted of or pleaded 236
guilty to any of the following: 237

(a) A violation of section 2903.01, 2903.02, 2903.03, 238

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

(b) A violation of an existing or former law of this state, 254
any other state, or the United States that is substantially 255
equivalent to any of the offenses listed in division (A)(8)(a) of 256
this section. 257

(9) When conducting a criminal records check on a request 258
pursuant to section 5104.013 of the Revised Code for a person who 259
is an owner, licensee, or administrator of a child day-care center 260
or type A family day-care home or an authorized provider of a 261
certified type B family day-care home, the superintendent, in 262
addition to the determination made under division (A)(1) of this 263
section, shall determine whether any information exists that 264
indicates that the person has been convicted of or pleaded guilty 265
to any of the following: 266

(a) A violation of section 2913.02, 2913.03, 2913.04, 267
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 268
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 269
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2921.11, 270

2921.13, or 2923.01 of the Revised Code, a violation of section 271
2923.02 or 2923.03 of the Revised Code that relates to a crime 272
specified in this division or division (A)(1)(a) of this section, 273
or a second violation of section 4511.19 of the Revised Code 274
within five years of the date of application for licensure or 275
certification. 276

(b) A violation of an existing or former law of this state, 277
any other state, or the United States that is substantially 278
equivalent to any of the offenses or violations described in 279
division (A)(9)(a) of this section. 280

(10) On receipt of a request for a criminal records check 281
from an individual pursuant to section 4749.03 or 4749.06 of the 282
Revised Code, accompanied by a completed copy of the form 283
prescribed in division (C)(1) of this section and a set of 284
fingerprint impressions obtained in a manner described in division 285
(C)(2) of this section, the superintendent of the bureau of 286
criminal identification and investigation shall conduct a criminal 287
records check in the manner described in division (B) of this 288
section to determine whether any information exists indicating 289
that the person who is the subject of the request has been 290
convicted of or pleaded guilty to a felony in this state or in any 291
other state. If the individual indicates that a firearm will be 292
carried in the course of business, the superintendent shall 293
require information from the federal bureau of investigation as 294
described in division (B)(2) of this section. The superintendent 295
shall report the findings of the criminal records check and any 296
information the federal bureau of investigation provides to the 297
director of public safety. 298

(11) On receipt of a request pursuant to section 1322.03, 299
1322.031, or 4763.05 of the Revised Code, a completed form 300
prescribed pursuant to division (C)(1) of this section, and a set 301
of fingerprint impressions obtained in the manner described in 302

division (C)(2) of this section, the superintendent of the bureau 303
of criminal identification and investigation shall conduct a 304
criminal records check with respect to any person who has applied 305
for a license, permit, or certification from the department of 306
commerce or a division in the department. The superintendent shall 307
conduct the criminal records check in the manner described in 308
division (B) of this section to determine whether any information 309
exists that indicates that the person who is the subject of the 310
request previously has been convicted of or pleaded guilty to any 311
of the following: a violation of section 2913.02, 2913.11, 312
2913.31, 2913.51, or 2925.03 of the Revised Code; any other 313
criminal offense involving theft, receiving stolen property, 314
embezzlement, forgery, fraud, passing bad checks, money 315
laundering, or drug trafficking, or any criminal offense involving 316
money or securities, as set forth in Chapters 2909., 2911., 2913., 317
2915., 2921., 2923., and 2925. of the Revised Code; or any 318
existing or former law of this state, any other state, or the 319
United States that is substantially equivalent to those offenses. 320

(12) Not later than thirty days after the date the 321
superintendent receives the request, completed form, and 322
fingerprint impressions, the superintendent shall send the person, 323
board, or entity that made the request any information, other than 324
information the dissemination of which is prohibited by federal 325
law, the superintendent determines exists with respect to the 326
person who is the subject of the request that indicates that the 327
person previously has been convicted of or pleaded guilty to any 328
offense listed or described in division (A)(1), (2), (3), (4), 329
(5), (6), (7), (8), (9), ~~or (10)~~, or (11) of this section, as 330
appropriate. The superintendent shall send the person, board, or 331
entity that made the request a copy of the list of offenses 332
specified in division (A)(1), (2), (3), (4), (5), (6), (7), (8), 333
(9), ~~or (10)~~, or (11) of this section, as appropriate. If the 334
request was made under section 3701.881 of the Revised Code with 335

regard to an applicant who may be both responsible for the care, 336
custody, or control of a child and involved in providing direct 337
care to an older adult, the superintendent shall provide a list of 338
the offenses specified in divisions (A)(4) and (6) of this 339
section. 340

(B) The superintendent shall conduct any criminal records 341
check requested under section 121.08, 173.41, 1322.03, 1322.031, 342
2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 343
3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 344
5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 345
Code as follows: 346

(1) The superintendent shall review or cause to be reviewed 347
any relevant information gathered and compiled by the bureau under 348
division (A) of section 109.57 of the Revised Code that relates to 349
the person who is the subject of the request, including any 350
relevant information contained in records that have been sealed 351
under section 2953.32 of the Revised Code; 352

(2) If the request received by the superintendent asks for 353
information from the federal bureau of investigation, the 354
superintendent shall request from the federal bureau of 355
investigation any information it has with respect to the person 356
who is the subject of the request and shall review or cause to be 357
reviewed any information the superintendent receives from that 358
bureau. 359

(3) The superintendent or the superintendent's designee may 360
request criminal history records from other states or the federal 361
government pursuant to the national crime prevention and privacy 362
compact set forth in section 109.571 of the Revised Code. 363

(C)(1) The superintendent shall prescribe a form to obtain 364
the information necessary to conduct a criminal records check from 365
any person for whom a criminal records check is required by 366

section 121.08, 173.41, 1322.03, 1322.031, 2151.86, 3301.32, 367
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 368
4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 369
5126.28, 5126.281, or 5153.111 of the Revised Code. The form that 370
the superintendent prescribes pursuant to this division may be in 371
a tangible format, in an electronic format, or in both tangible 372
and electronic formats. 373

(2) The superintendent shall prescribe standard impression 374
sheets to obtain the fingerprint impressions of any person for 375
whom a criminal records check is required by section 121.08, 376
173.41, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 377
3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 378
5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, 379
or 5153.111 of the Revised Code. Any person for whom a records 380
check is required by any of those sections shall obtain the 381
fingerprint impressions at a county sheriff's office, municipal 382
police department, or any other entity with the ability to make 383
fingerprint impressions on the standard impression sheets 384
prescribed by the superintendent. The office, department, or 385
entity may charge the person a reasonable fee for making the 386
impressions. The standard impression sheets the superintendent 387
prescribes pursuant to this division may be in a tangible format, 388
in an electronic format, or in both tangible and electronic 389
formats. 390

(3) Subject to division (D) of this section, the 391
superintendent shall prescribe and charge a reasonable fee for 392
providing a criminal records check requested under section 121.08, 393
173.41, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 394
3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 395
5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, 396
or 5153.111 of the Revised Code. The person making a criminal 397
records request under section 121.08, 173.41, 1322.03, 1322.031, 398

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

(4) The superintendent of the bureau of criminal 408
identification and investigation may prescribe methods of 409
forwarding fingerprint impressions and information necessary to 410
conduct a criminal records check, which methods shall include, but 411
not be limited to, an electronic method. 412

(D) A determination whether any information exists that 413
indicates that a person previously has been convicted of or 414
pleaded guilty to any offense listed or described in division 415
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 416
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7)~~(a) or (b)~~, 417
(A)(8)(a) or (b), ~~or~~ (A)(9)(a) or (b), or (A)(11) of this section 418
that is made by the superintendent with respect to information 419
considered in a criminal records check in accordance with this 420
section is valid for the person who is the subject of the criminal 421
records check for a period of one year from the date upon which 422
the superintendent makes the determination. During the period in 423
which the determination in regard to a person is valid, if another 424
request under this section is made for a criminal records check 425
for that person, the superintendent shall provide the information 426
that is the basis for the superintendent's initial determination 427
at a lower fee than the fee prescribed for the initial criminal 428
records check. 429

(E) As used in this section: 430

(1) "Criminal records check" means any criminal records check 431
conducted by the superintendent of the bureau of criminal 432
identification and investigation in accordance with division (B) 433
of this section. 434

(2) "Home and community-based waiver services" and "waiver 435
agency" have the same meanings as in section 5111.95 of the 436
Revised Code. 437

(3) "Independent provider" has the same meaning as in section 438
5111.96 of the Revised Code. 439

(4) "Minor drug possession offense" has the same meaning as 440
in section 2925.01 of the Revised Code. 441

(5) "Older adult" means a person age sixty or older. 442

Sec. 1321.541. (A) The attorney general may directly bring an 443
action to enjoin a violation of sections 1321.51 to 1321.60 of the 444
Revised Code with the same rights, privileges, and powers as those 445
described in section 1345.06 of the Revised Code. The prosecuting 446
attorney of the county in which the action may be brought may 447
bring an action to enjoin a violation of sections 1321.51 to 448
1321.60 of the Revised Code only if the prosecuting attorney first 449
presents any evidence of the violation to the attorney general 450
and, within a reasonable period of time, the attorney general has 451
not agreed to bring the action. 452

(B)(1) The prosecuting attorney of the county in which an 453
alleged offense may be prosecuted may initiate criminal 454
proceedings under sections 1321.51 to 1321.60 of the Revised Code. 455

(2) In order to initiate criminal proceedings under sections 456
1321.51 to 1321.60 of the Revised Code, the attorney general shall 457
first present any evidence of criminal violations to the 458
prosecuting attorney of the county in which the alleged offense 459
may be prosecuted. If, within a reasonable period of time, the 460

prosecuting attorney has not agreed to prosecute the violations, 461
the attorney general may proceed in the prosecution with all the 462
rights, privileges, and powers conferred by law on prosecuting 463
attorneys, including the power to appear before grand juries and 464
to interrogate witnesses before such grand juries. 465

(C) These powers of the attorney general shall be in addition 466
to any other applicable powers of the attorney general. 467

Sec. 1321.57. (A) Notwithstanding any other provisions of the 468
Revised Code, a registrant may contract for and receive interest, 469
calculated according to the actuarial method, at a rate or rates 470
not exceeding twenty-one per cent per year on the unpaid principal 471
balances of the loan. Loans may be interest-bearing or 472
precomputed. 473

(B) For purposes of computation of time on interest-bearing 474
and precomputed loans, including, but not limited to, the 475
calculation of interest, a month is considered one-twelfth of a 476
year, and a day is considered one three hundred sixty-fifth of a 477
year when calculation is made for a fraction of a month. A year is 478
as defined in section 1.44 of the Revised Code. A month is that 479
period described in section 1.45 of the Revised Code. 480
Alternatively, a registrant may consider a day as one three 481
hundred sixtieth of a year and each month as having thirty days. 482

(C) With respect to interest-bearing loans: 483

(1)(a) Interest shall be computed on unpaid principal 484
balances outstanding from time to time, for the time outstanding. 485

(b) As an alternative to the method of computing interest set 486
forth in division (C)(1)(a) of this section, a registrant may 487
charge and collect interest for the first installment period based 488
on elapsed time from the date of the loan to the first scheduled 489
payment due date, and for each succeeding installment period from 490

the scheduled payment due date to the next scheduled payment due
date, regardless of the date or dates the payments are actually
made.

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

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

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

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

(D) With respect to precomputed loans:

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

provided further that monthly installment payment dates may be 522
omitted to accommodate borrowers with seasonal income. 523

(2) Payments may be applied to the combined total of 524
principal and precomputed interest until maturity of the loan. A 525
registrant may charge interest after the original or deferred 526
maturity of a precomputed loan at the rate specified in division 527
(A) of this section on all unpaid principal balances for the time 528
outstanding. 529

(3) When any loan contract is paid in full by cash, renewal, 530
refinancing, or a new loan, one month or more before the final 531
installment due date, the registrant shall refund, or credit the 532
borrower with, the total of the applicable charges for all fully 533
unexpired installment periods, as originally scheduled or as 534
deferred, that follow the day of prepayment. If the prepayment is 535
made other than on a scheduled installment due date, the nearest 536
scheduled installment due date shall be used in such computation. 537
If the prepayment occurs prior to the first installment due date, 538
the registrant may retain one-thirtieth of the applicable charge 539
for a first installment period of one month for each day from date 540
of loan to date of prepayment, and shall refund, or credit the 541
borrower with, the balance of the total interest contracted for. 542
If the maturity of the loan is accelerated for any reason and 543
judgment is entered, the registrant shall credit the borrower with 544
the same refund as if prepayment in full had been made on the date 545
the judgment is entered. 546

(4) If the parties agree in writing, either in the loan 547
contract or in a subsequent agreement, to a deferment of wholly 548
unpaid installments, a registrant may grant a deferment and may 549
collect a deferment charge as provided in this section. A 550
deferment postpones the scheduled due date of the earliest unpaid 551
installment and all subsequent installments as originally 552
scheduled, or as previously deferred, for a period equal to the 553

deferment period. The deferment period is that period during which 554
no installment is scheduled to be paid by reason of the deferment. 555
The deferment charge for a one-month period may not exceed the 556
applicable charge for the installment period immediately following 557
the due date of the last undeferred installment. A proportionate 558
charge may be made for deferment for periods of more or less than 559
one month. A deferment charge is earned pro rata during the 560
deferment period and is fully earned on the last day of the 561
deferment period. If a loan is prepaid in full during a deferment 562
period, the registrant shall make, or credit to the borrower, a 563
refund of the unearned deferment charge in addition to any other 564
refund or credit made for prepayment of the loan in full. 565

(E) A registrant, at the request of the borrower, may obtain, 566
on one or more borrowers, credit life insurance, credit accident 567
and health insurance, and unemployment insurance. The premium or 568
identifiable charge for the insurance may be included in the 569
principal amount of the loan and may not exceed the premium rate 570
filed by the insurer with the superintendent of insurance and not 571
disapproved by the superintendent. If a registrant obtains the 572
insurance at the request of the borrower, the borrower shall have 573
the right to cancel the insurance for a period of twenty-five days 574
after the loan is made. If the borrower chooses to cancel the 575
insurance, the borrower shall give the registrant written notice 576
of this choice and shall return all of the policies or 577
certificates of insurance or notices of proposed insurance to the 578
registrant during such period, and the full premium or 579
identifiable charge for the insurance shall be refunded to the 580
borrower by the registrant. If the borrower requests, in the 581
notice to cancel the insurance, that this refund be applied to 582
reduce the balance of a precomputed loan, the registrant shall 583
credit the amount of the refund plus the amount of interest 584
applicable to the refund to the loan balance. 585

If the registrant obtains the insurance at the request of the 586
borrower, the registrant shall not charge or collect interest on 587
any insured amount that remains unpaid after the insured 588
borrower's date of death. 589

(F) A registrant may require the borrower to provide 590
insurance or a loss payable endorsement covering reasonable risks 591
of loss, damage, and destruction of property used as security for 592
the loan and with the consent of the borrower such insurance may 593
cover property other than that which is security for the loan. The 594
amount and term of required property insurance shall be reasonable 595
in relation to the amount and term of the loan contract and the 596
type and value of the security, and the insurance shall be 597
procured in accordance with the insurance laws of this state. The 598
purchase of this insurance through the registrant or an agent or 599
broker designated by the registrant shall not be a condition 600
precedent to the granting of the loan. If the borrower purchases 601
the insurance from or through the registrant or from another 602
source, the premium may be included in the principal amount of the 603
loan. 604

(G) On loans secured by an interest in real estate, all of 605
the following apply: 606

(1) A registrant may charge and receive up to two points, and 607
a prepayment penalty not in excess of one per cent of the original 608
principal amount of the loan. Points may be paid by the borrower 609
at the time of the loan or may be included in the principal amount 610
of the loan. On a refinancing, a registrant may not charge under 611
division (G)(1) of this section either of the following: 612

(a) Points on the portion of the principal amount that is 613
applied to the unpaid principal amount of the refinanced loan, if 614
the refinancing occurs within one year after the date of the 615
refinanced loan on which points were charged; 616

(b) A prepayment penalty. 617

(2) As an alternative to the prepayment penalty described in 618
division (G)(1) of this section, a registrant may contract for, 619
charge, and receive the prepayment penalty described in this 620
~~division (G)(2) of this section~~ for the prepayment of a loan prior 621
to ~~three~~ two years after the date the loan contract is executed. 622
This prepayment penalty shall not exceed ~~three~~ two per cent of the 623
original principal amount of the loan if the loan is paid in full 624
prior to one year after the date the loan contract is executed. 625
The penalty shall not exceed ~~two~~ one per cent of the original 626
principal amount of the loan if the loan is paid in full at any 627
time from one year, but prior to two years, after the date the 628
loan contract is executed. ~~The penalty shall not exceed one per~~ 629
~~cent of the original principal amount of the loan if the loan is~~ 630
~~paid in full at any time from two years, but prior to three years,~~ 631
~~after the date the loan contract is executed.~~ A registrant shall 632
not charge or receive a prepayment penalty under division (G)(2) 633
of this section if any of the following applies: 634

(a) The loan is a refinancing by the same registrant or a 635
registrant to whom the loan has been assigned; 636

(b) The loan is paid in full as a result of the sale of the 637
real estate that secures the loan; 638

(c) The loan is paid in full with the proceeds of an 639
insurance claim against an insurance policy that insures the life 640
of the borrower or an insurance policy that covers loss, damage, 641
or destruction of the real estate that secures the loan. 642

(3) Division (G) of this section is not a limitation on 643
discount points or other charges for purposes of section 501(b)(4) 644
of the "Depository Institutions Deregulation and Monetary Control 645
Act of 1980," 94 Stat. 161, 12 U.S.C.A. 1735f-7 note. 646

(H)(1) In addition to the interest and charges provided for 647

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

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

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

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

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

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

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

(I) If the loan contract or security instrument contains 679
covenants by the borrower to perform certain duties pertaining to 680
insuring or preserving security and the registrant pursuant to the 681
loan contract or security instrument pays for performance of the 682
duties on behalf of the borrower, the registrant may add the 683
amounts paid to the unpaid principal balance of the loan or 684
collect them separately. A charge for interest may be made for 685
sums advanced not exceeding the rate of interest permitted by 686
division (A) of this section. Within a reasonable time after 687
advancing a sum, the registrant shall notify the borrower in 688
writing of the amount advanced, any interest charged with respect 689
to the amount advanced, any revised payment schedule, and shall 690
include a brief description of the reason for the advance. 691

(J)(1) In addition to points authorized under division (G) of 692
this section, a registrant may charge and receive the following: 693

(a) With respect to secured loans: if the principal amount of 694
the loan is less than five hundred dollars, loan origination 695
charges not exceeding fifteen dollars; if the principal amount of 696
the loan is at least five hundred dollars but less than one 697
thousand dollars, loan origination charges not exceeding thirty 698
dollars; if the principal amount of the loan is at least one 699
thousand dollars but less than two thousand dollars, loan 700
origination charges not exceeding one hundred dollars; if the 701
principal amount of the loan is at least two thousand dollars but 702
less than five thousand dollars, loan origination charges not 703
exceeding two hundred dollars; and if the principal amount of the 704
loan is at least five thousand dollars, loan origination charges 705
not exceeding the greater of two hundred fifty dollars or one per 706
cent of the principal amount of the loan. 707

(b) With respect to unsecured loans: if the principal amount 708
of the loan is less than five hundred dollars, loan origination 709
charges not exceeding fifteen dollars; if the principal amount of 710

the loan is at least five hundred dollars but less than one 711
thousand dollars, loan origination charges not exceeding thirty 712
dollars; if the principal amount of the loan is at least one 713
thousand dollars but less than five thousand dollars, loan 714
origination charges not exceeding one hundred dollars; and if the 715
principal amount of the loan is at least five thousand dollars, 716
loan origination charges not exceeding the greater of two hundred 717
fifty dollars or one per cent of the principal amount of the loan. 718

(2) If a refinancing occurs within ninety days after the date 719
of the refinanced loan, a registrant may not impose loan 720
origination charges on the portion of the principal amount that is 721
applied to the unpaid principal amount of the refinanced loan. 722

(3) Loan origination charges may be paid by the borrower at 723
the time of the loan or may be included in the principal amount of 724
the loan. 725

(K) A registrant may charge and receive check collection 726
charges not greater than twenty dollars plus any amount passed on 727
from other financial institutions for each check, negotiable order 728
of withdrawal, share draft, or other negotiable instrument 729
returned or dishonored for any reason. 730

(L) If the loan contract so provides, a registrant may 731
collect a default charge on any installment not paid in full 732
within ten days after its due date. For this purpose, all 733
installments are considered paid in the order in which they become 734
due. Any amounts applied to an outstanding loan balance as a 735
result of voluntary release of a security interest, sale of 736
security on the loan, or cancellation of insurance shall be 737
considered payments on the loan, unless the parties otherwise 738
agree in writing at the time the amounts are applied. The amount 739
of the default charge shall not exceed the greater of five per 740
cent of the scheduled installment or fifteen dollars. 741

Sec. 1322.02. (A)(1) No person, on the person's own behalf or 742
on behalf of any other person, shall act as a mortgage broker 743
without first having obtained a certificate of registration from 744
the superintendent of financial institutions for every office to 745
be maintained by the person for the transaction of business as a 746
mortgage broker in this state. A registrant shall maintain an 747
office location in this state for the transaction of business as a 748
mortgage broker in this state. 749

(2) No person shall act or hold that person's self out as a 750
mortgage broker under the authority or name of a registrant or 751
person exempt from sections 1322.01 to 1322.12 of the Revised Code 752
without first having obtained a certificate of registration from 753
the superintendent for every office to be maintained by the person 754
for the transaction of business as a mortgage broker in this 755
state. 756

(B) No person, on the person's own behalf or on behalf of any 757
other person, shall act as a loan officer without first having 758
obtained a license from the superintendent. A loan officer shall 759
not be employed by more than one mortgage broker at any one time. 760

(C)(1) The following persons are exempt from sections 1322.01 761
to 1322.12 of the Revised Code only with respect to business 762
engaged in or authorized by their charter, license, authority, 763
approval, or certificate, or as otherwise authorized by division 764
(C)(1)(g) of this section: 765

(a) A bank, savings bank, savings and loan association, or 766
credit union organized under the laws of this state, another 767
state, or the United States, or a subsidiary or affiliate of a 768
bank, savings bank, savings and loan association, or credit 769
union. As used in this division, "affiliate" means an entity that 770
controls, is controlled by, or is under common control with, a 771
bank, savings bank, savings and loan association, or credit union, 772

and is subject to examination, supervision, and regulation, 773
including with respect to the affiliate's compliance with 774
applicable consumer protection requirements, by the board of 775
governors of the federal reserve system, the comptroller of the 776
currency, the office of thrift supervision, the federal deposit 777
insurance corporation, or the national credit union 778
administration. 779

(b) A budget and debt counseling service, as defined in 780
division (D) of section 2716.03 of the Revised Code, provided that 781
the service is a nonprofit organization exempt from taxation under 782
section 501(c)(3) of the "Internal Revenue Code of 1986," 100 783
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 784
in compliance with Chapter 4710. of the Revised Code; 785

(c) A consumer reporting agency that is in substantial 786
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 787
U.S.C.A. 1681a, as amended; 788

(d) Any political subdivision, or any governmental or other 789
public entity, corporation, or agency, in or of the United States 790
or any state of the United States; 791

(e) A college or university, or controlled entity of a 792
college or university, as defined in section 1713.05 of the 793
Revised Code; 794

(f) A person registered under sections 1321.51 to 1321.60 of 795
the Revised Code, provided that not more than five per cent of the 796
person's mortgage loans constitute table-funding mortgage loans or 797
warehouse-lending mortgage loans. Division (C)(1)(f) of this 798
section does not include any person that is also registered or 799
licensed under sections 1322.01 to 1322.12 of the Revised Code. 800

(g) A mortgage banker. For purposes of division (C)(1)(g) of 801
this section, "mortgage banker" means any person that makes, 802
services, buys, or sells mortgage loans, that underwrites the 803

loans, and that meets at least one of the following criteria: 804

(i) The person has been directly approved by the United 805
States department of housing and urban development as a 806
nonsupervised mortgagee with participation in the direct 807
endorsement program. Division (C) (1) (g) (i) of this section 808
includes a person that has been directly approved by the United 809
States department of housing and urban development as a 810
nonsupervised mortgagee with participation in the direct 811
endorsement program and that makes loans in excess of the 812
applicable loan limit set by the federal national mortgage 813
association, provided that the loans in all respects, except loan 814
amounts, comply with the underwriting and documentation 815
requirements of the United States department of housing and urban 816
development. Division (C)(1)(g)(i) of this section does not 817
include a mortgagee approved as a loan correspondent. 818

(ii) The person has been directly approved by the federal 819
national mortgage association as a seller/servicer. Division (C) 820
(1) (g) (ii) of this section includes a person that has been 821
directly approved by the federal national mortgage association as 822
a seller/servicer and that makes loans in excess of the applicable 823
loan limit set by the federal national mortgage association, 824
provided that the loans in all respects, except loan amounts, 825
comply with the underwriting and documentation requirements of the 826
federal national mortgage association. 827

(iii) The person has been directly approved by the federal 828
home loan mortgage corporation as a seller/servicer. Division (C) 829
(1) (g) (iii) of this section includes a person that has been 830
directly approved by the federal home loan mortgage corporation as 831
a seller/servicer and that makes loans in excess of the applicable 832
loan limit set by the federal home loan mortgage corporation, 833
provided that the loans in all respects, except loan amounts, 834
comply with the underwriting and documentation requirements of the 835

federal home loan mortgage corporation. 836

(iv) The person has been directly approved by the United 837
States department of veterans affairs as a nonsupervised automatic 838
lender. Division (C)(1)(g)(iv) of this section does not include a 839
person directly approved by the United States department of 840
veterans affairs as a nonsupervised lender, an agent of a 841
nonsupervised automatic lender, or an agent of a nonsupervised 842
lender. 843

(h) A person created solely for the purpose of securitizing 844
loans secured by an interest in real estate, provided the person 845
does not service the loans. For purposes of division (C)(1)(h) of 846
this section, "securitizing" means the packaging and sale of 847
mortgage loans as a unit for sale as investment securities, but 848
only to the extent of those activities. 849

(2) Any individual who is employed by a person exempt from 850
sections 1322.01 to 1322.12 of the Revised Code is also exempt 851
from those sections to the extent the individual is acting within 852
the scope of the individual's employment and within the scope of 853
the exempt person's charter, license, authority, approval, or 854
certificate. 855

Sec. 1322.03. (A) An application for a certificate of 856
registration as a mortgage broker shall be in writing, under oath, 857
and in the form prescribed by the superintendent of financial 858
institutions. The application shall be accompanied by a 859
nonrefundable application fee of three hundred fifty dollars for 860
each location of an office to be maintained by the applicant in 861
accordance with division (A) of section 1322.02 of the Revised 862
Code; however, an applicant that is registered under sections 863
1321.51 to 1321.60 of the Revised Code shall not be required to 864
pay an application fee. The application shall provide all of the 865
following: 866

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

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

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

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

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

(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.

(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 898
financial institution, mortgage lending institution, or other 899
lending institution, or possesses at least three years of other 900
experience related specifically to the business of mortgage loans 901
that the superintendent determines meets the requirements of 902
division (A)(4) of this section; 903

(5) Evidence that the sole proprietor or the person 904
designated on the application pursuant to division (A)(3) of this 905
section, as applicable, meets the qualifying education 906
requirements of section 1322.031 of the Revised Code or possesses 907
other post-secondary education related specifically to the 908
business of mortgage loans that the superintendent determines 909
meets the requirements of division (A)(4) of section 1322.031 of 910
the Revised Code. Division (A)(5) of this section does not apply 911
to any applicant who holds a valid loan officer license or is an 912
applicant under division (A)(5) of this section prior to January 913
1, 2007. 914

If the superintendent requires as proof a statement as to 915
whether the applicant has successfully completed the requirements 916
of division (A)(4) of section 1322.031 of the Revised Code in lieu 917
of transcripts, the applicant shall maintain the transcripts 918
substantiating successful completion for a period of five years 919
for inspection by the superintendent at the superintendent's 920
request. 921

(6) Evidence of compliance with the surety bond requirements 922
of section 1322.05 of the Revised Code and with sections 1322.01 923
to 1322.12 of the Revised Code; 924

~~(6)~~(7) In the case of a foreign business entity, evidence 925
that it maintains a license or registration pursuant to Chapter 926
1703., 1705., 1775., 1777., 1782., or 1783. of the Revised Code to 927
transact business in this state; 928

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

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

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

~~(10)~~(11) 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 109.572 960
of the Revised Code shall be paid by the applicant. 961

(2) The superintendent shall conduct a civil records check. 962
~~If,~~ 963

(3) If, in order to issue a certificate of registration to an 964
applicant, additional investigation by the superintendent outside 965
this state is necessary, the superintendent may require the 966
applicant to advance sufficient funds to pay the actual expenses 967
of the investigation, if it appears that these expenses will 968
exceed three hundred fifty dollars. The superintendent shall 969
provide the applicant with an itemized statement of the actual 970
expenses that the applicant is required to pay. 971

(C) ~~All~~ The superintendent shall pay all funds advanced and 972
application and renewal fees and penalties ~~paid to the~~ 973
superintendent ~~under~~ receives pursuant to this section and section 974
1322.04 of the Revised Code ~~shall be paid by the superintendent to~~ 975
the treasurer of state to the credit of the consumer finance fund 976
created in section 1321.21 of the Revised Code. 977

(D) If an application for a certificate of registration does 978
not contain all of the information required under division (A) of 979
this section, and if that information is not submitted to the 980
superintendent within ninety days after the superintendent 981
requests the information in writing, the superintendent may 982
consider the application withdrawn. 983

(E) A certificate of registration, ~~or~~ and the authority 984
granted under ~~such a~~ that certificate, ~~is~~ is not transferable or 985
assignable and cannot be franchised by contract or any other 986
means. 987

Sec. 1322.031. (A) An application for a license as a loan 988
officer shall be in writing, under oath, and in the form 989

prescribed by the superintendent of financial institutions. The 990
application shall be accompanied by a nonrefundable application 991
fee of one hundred dollars and shall provide all of the following: 992

(1) The name and address of the applicant; 993

(2) A statement as to whether the applicant has been 994
convicted of or pleaded guilty to any criminal offense involving 995
theft, receiving stolen property, embezzlement, forgery, fraud, 996
passing bad checks, money laundering, or drug trafficking, or any 997
criminal offense involving money or securities; 998

(3) A statement as to whether the applicant has been subject 999
to an adverse judgment for conversion, embezzlement, 1000
misappropriation of funds, fraud, misfeasance or malfeasance, or 1001
breach of fiduciary duty; 1002

(4) For loan officer applications submitted on or after 1003
January 1, 2007, proof, as determined by the superintendent, that 1004
the applicant has successfully completed educational programs 1005
approved by the superintendent, within the preceding ten years, 1006
that include all of the following: 1007

(a) Twelve hours of classroom instruction in real estate 1008
finance and residential lending that includes the subjects of 1009
annual percentage rate calculations, "Real Estate Settlement 1010
Procedures Act," 88 Stat. 1724 (1974), 12 U.S.C. 2601 et seq., 1011
mortgage lending programs, the Ohio mortgage banking act, and the 1012
Ohio mortgage loan act. 1013

(b) Twelve hours of classroom instruction that includes the 1014
subjects of Ohio real estate law, municipal, state, and federal 1015
civil rights law, new case law on foreclosure, residential 1016
mortgage lending, and methods of eliminating the effects of 1017
predatory and unsound lending practices. If feasible, the 1018
classroom instruction in this section shall be taught by a member 1019
of the faculty of an accredited law school. The requirements of 1020

this division do not apply to an applicant who is admitted to 1021
practice before the supreme court. 1022

(c) Eight hours of classroom instruction in real estate 1023
appraisal that includes the subjects of the uniform standards of 1024
professional appraisal practice; 1025

(d) Eight hours of classroom instruction in ethics that 1026
includes fiduciary duties, confidentiality, and consumer 1027
counseling; 1028

(5) Division (A)(4) of this section does not apply to any 1029
applicant who holds a valid loan officer license issued prior to 1030
January 1, 2007. 1031

(6) If the superintendent requires as proof a statement as to 1032
whether the applicant has successfully completed the requirements 1033
of division (A)(4) of this section in lieu of transcripts, the 1034
applicant shall maintain the transcripts substantiating successful 1035
completion for a period of five years for inspection by the 1036
superintendent at the superintendent's request; 1037

(7) Any further information that the superintendent requires. 1038

(B) Upon the filing of the application and payment of the 1039
application fee, the superintendent of financial institutions 1040
shall investigate the applicant as set forth in this division. ~~The~~ 1041
~~investigation shall include~~ 1042

(1) The superintendent shall request the superintendent of 1043
the bureau of criminal identification and investigation, or a 1044
vendor approved by the bureau, to conduct a criminal records check 1045
based on the applicant's fingerprints of the applicant and in 1046
accordance with division (A)(11) of section 109.572 of the Revised 1047
Code. Notwithstanding division (J) of section 121.08 of the 1048
Revised Code, the superintendent of financial institutions shall 1049
request that criminal record information from the federal bureau 1050

of investigation be obtained as part of the criminal records 1051
check. Any fee required under division (C)(3) of section 109.572 1052
of the Revised Code shall be paid by the applicant. 1053

(2) The superintendent shall conduct a civil records check. 1054
~~if~~ 1055

(3) If, in order to issue a license to an applicant, 1056
additional investigation by the superintendent outside this state 1057
is necessary, the superintendent may require the applicant to 1058
advance sufficient funds to pay the actual expenses of the 1059
investigation, if it appears that these expenses will exceed one 1060
hundred dollars. The superintendent shall provide the applicant 1061
with an itemized statement of the actual expenses that the 1062
applicant is required to pay. 1063

(C) ~~All~~ The superintendent shall pay all funds advanced and 1064
application and renewal fees and penalties ~~paid to the~~ 1065
superintendent ~~under~~ receives pursuant to this section and section 1066
1322.041 of the Revised Code ~~shall be paid by the superintendent~~ 1067
to the treasurer of state to the credit of the consumer finance 1068
fund created in section 1321.21 of the Revised Code. 1069

(D) If an application for a license does not contain all of 1070
the information required under division (A) of this section, and 1071
if that information is not submitted to the superintendent within 1072
ninety days after the superintendent requests the information in 1073
writing, the superintendent may consider the application 1074
withdrawn. 1075

(E)(1) The business of a loan officer shall principally be 1076
transacted at an office of the employing mortgage broker, which 1077
office is registered in accordance with division (A) of section 1078
1322.02 of the Revised Code. Each original license shall be 1079
deposited with and maintained by the employing mortgage broker at 1080
the mortgage broker's main office. A copy of the license shall be 1081

maintained and displayed at the office where the loan officer
principally transacts business. 1082
1083

(2) If a loan officer's employment is terminated, the 1084
mortgage broker shall return the original license to the 1085
superintendent within five business days after the termination. 1086
The licensee may request the transfer of the license to another 1087
mortgage broker by submitting a relocation application, along with 1088
a fifteen dollar fee, to the superintendent or may request the 1089
superintendent in writing to hold the license in escrow for a 1090
period not to exceed one year. Any licensee whose license is held 1091
in escrow shall cease activity as a loan officer. 1092

A mortgage broker may employ a loan officer on a temporary 1093
basis pending the transfer of the loan officer's license to the 1094
mortgage broker, if the mortgage broker receives written 1095
confirmation from the superintendent that the loan officer is 1096
licensed under sections 1322.01 to 1322.12 of the Revised Code. 1097

(F) A license, or the authority granted under ~~such a~~ that 1098
license, is not assignable and cannot be franchised by contract or 1099
any other means. 1100

Sec. 1322.04. (A) Upon the conclusion of the investigation 1101
required under division (B) of section 1322.03 of the Revised 1102
Code, the superintendent of financial institutions shall issue a 1103
certificate of registration to the applicant if the superintendent 1104
finds that the following conditions are met: 1105

(1) Except as otherwise provided in division (A) of section 1106
1322.03 of the ~~Revised~~ Revised Code, the application is accompanied 1107
by the application fee. If a check or other draft instrument is 1108
returned to the superintendent for insufficient funds, the 1109
superintendent shall notify the registrant by certified mail, 1110
return receipt requested, that the certificate of registration 1111

issued in reliance on the check or other draft instrument will be 1112
canceled unless the registrant, within thirty days after receipt 1113
of the notice, submits the application fee and a 1114
one-hundred-dollar penalty to the superintendent. If the 1115
registrant does not submit the application fee and penalty within 1116
that time period, or if any check or other draft instrument used 1117
to pay the fee or penalty is returned to the superintendent for 1118
insufficient funds, the certificate of registration shall be 1119
canceled immediately without a hearing, and the registrant shall 1120
cease activity as a mortgage broker. 1121

(2) If the application is for a location that is a residence, 1122
that the applicant has obtained a valid zoning permit authorizing 1123
the use of the residence for commercial purposes, or has obtained 1124
a valid written opinion or other document issued by the county or 1125
political subdivision where the residence is located certifying 1126
that the use of the residence to transact business as a mortgage 1127
broker is not prohibited by the county or political subdivision. 1128
The application also is accompanied by a photograph of each 1129
location at which the mortgage broker's business will be 1130
transacted. 1131

(3) The sole proprietor or the person designated on the 1132
application pursuant to division (A)(3) of section 1322.03 of the 1133
Revised Code, as applicable, meets the experience requirements 1134
provided in division (A)(4) of section 1322.03 of the Revised 1135
Code. 1136

(4) The applicant maintains all licenses and registrations 1137
required by the secretary of state. 1138

(5) The applicant complies with the surety bond requirements 1139
of section 1322.05 of the Revised Code. 1140

(6) The applicant complies with sections 1322.01 to 1322.12 1141
of the Revised Code. 1142

(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 no basis in fact for believing that the applicant or other person will commit such an offense again.

(8) Neither the applicant nor any shareholder, member, partner, operations manager, or employee of the applicant has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or, if the applicant or any of those other persons has been subject to such a judgment, 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 judgment show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will be subject to such a judgment again.

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

(10) The applicant's financial responsibility, experience,

character, and general fitness command the confidence of the 1175
public and warrant the belief that the business will be operated 1176
honestly and fairly in compliance with the purposes of sections 1177
1322.01 to 1322.12 of the Revised Code. 1178

For purposes of determining whether an applicant that is a 1179
partnership, corporation, or other business entity or association 1180
has met the conditions set forth in divisions (A)(7), (A)(8), and 1181
(A)(10) of this section, the superintendent shall determine which 1182
partners, shareholders, or persons named in the application 1183
pursuant to division (A)(2) of section 1322.03 of the Revised Code 1184
must meet the conditions set forth in divisions (A)(7), (A)(8), 1185
and (A)(10) of this section. This determination shall be based on 1186
the extent and nature of the partner's, shareholder's, or person's 1187
ownership interest in the partnership, corporation, or other 1188
business entity or association that is the applicant. 1189

(B) The certificate of registration issued pursuant to 1190
division (A) of this section may be renewed annually on or before 1191
the thirtieth day of April if the superintendent finds that all of 1192
the following conditions are met: 1193

(1) The renewal application is accompanied by a nonrefundable 1194
renewal fee of three hundred fifty dollars for each location of an 1195
office to be maintained by the applicant in accordance with 1196
division (A) of section 1322.02 of the Revised Code; however, an 1197
applicant that is registered under sections 1321.51 to 1321.60 of 1198
the Revised Code shall not be required to pay a renewal fee. If a 1199
check or other draft instrument is returned to the superintendent 1200
for insufficient funds, the superintendent shall notify the 1201
registrant by certified mail, return receipt requested, that the 1202
certificate of registration renewed in reliance on the check or 1203
other draft instrument will be canceled unless the registrant, 1204
within thirty days after receipt of the notice, submits the 1205
renewal fee and a one-hundred-dollar penalty to the 1206

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

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

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

(4) The applicant's certificate of registration 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
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.

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

(D) If 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:

(1) Designate another person as the operations manager;	1237
(2) Within ten days after the designation described in	1238
division (D)(1) of this section, notify the superintendent in	1239
writing of the designation;	1240
(3) Submit any additional information that the superintendent	1241
requires to establish that the newly designated operations manager	1242
complies with the experience requirements set forth in division	1243
(A)(4) of section 1322.03 of the Revised Code.	1244
Sec. 1322.041. (A) Upon the conclusion of the investigation	1245
required under division (B) of section 1322.031 of the Revised	1246
Code, the superintendent of financial institutions shall issue a	1247
loan officer license to the applicant if the superintendent finds	1248
that the following conditions are met:	1249
(1) The application is accompanied by the application fee. If	1250
a check or other draft instrument is returned to the	1251
superintendent for insufficient funds, the superintendent shall	1252
notify the licensee by certified mail, return receipt requested,	1253
that the license issued in reliance on the check or other draft	1254
instrument will be canceled unless the licensee, within thirty	1255
days after receipt of the notice, submits the application fee and	1256
a one-hundred-dollar penalty to the superintendent. If the	1257
licensee does not submit the application fee and penalty within	1258
that time period, or if any check or other draft instrument used	1259
to pay the fee or penalty is returned to the superintendent for	1260
insufficient funds, the license shall be canceled immediately	1261
without a hearing, and the licensee shall cease activity as a loan	1262
officer.	1263
(2) The applicant complies with sections 1322.01 to 1322.12	1264
of the Revised Code.	1265
(3) The applicant has not been convicted of or pleaded guilty	1266

to any criminal offense described in division (A)(2) of section 1267
1322.031 of the Revised Code, ~~or~~ and the applicant has not pleaded 1268
guilty to or been convicted of a violation of an existing or 1269
former law of this state, any other state, or the United States 1270
that substantially is equivalent to a criminal offense described 1271
in that division. However, if the applicant has been convicted of 1272
or pleaded guilty to such an offense, the superintendent shall not 1273
consider the offense if the applicant has proven to the 1274
superintendent, by a preponderance of the evidence, that the 1275
applicant's activities and employment record since the conviction 1276
show that the applicant is honest, truthful, and of good 1277
reputation, and there is no basis in fact for believing that the 1278
applicant will commit such an offense again. 1279

(4) The applicant has not been subject to an adverse judgment 1280
for conversion, embezzlement, misappropriation of funds, fraud, 1281
misfeasance or malfeasance, or breach of fiduciary duty, or, if 1282
the applicant has been subject to such a judgment, the applicant 1283
has proven to the superintendent, by a preponderance of the 1284
evidence, that the applicant's activities and employment record 1285
since the judgment show that the applicant is honest, truthful, 1286
and of good reputation, and there is no basis in fact for 1287
believing that the applicant will be subject to such a judgment 1288
again. 1289

(5) The applicant successfully completed the examination 1290
required under division (B) of section 1322.051 of the Revised 1291
Code. 1292

(6) The applicant's character and general fitness command the 1293
confidence of the public and warrant the belief that the business 1294
will be operated honestly and fairly in compliance with the 1295
purposes of sections 1322.01 to 1322.12 of the Revised Code. 1296

(B) The license issued under division (A) of this section may 1297

be renewed annually on or before the thirtieth day of April if the 1298
superintendent finds that all of the following conditions are met: 1299

(1) The renewal application is accompanied by a nonrefundable 1300
renewal fee of one hundred dollars. If a check or other draft 1301
instrument is returned to the superintendent for insufficient 1302
funds, the superintendent shall notify the licensee by certified 1303
mail, return receipt requested, that the license renewed in 1304
reliance on the check or other draft instrument will be canceled 1305
unless the licensee, within thirty days after receipt of the 1306
notice, submits the renewal fee and a one-hundred-dollar penalty 1307
to the superintendent. If the licensee does not submit the renewal 1308
fee and penalty within that time period, or if any check or other 1309
draft instrument used to pay the fee or penalty is returned to the 1310
superintendent for insufficient funds, the license shall be 1311
canceled immediately without a hearing, and the licensee shall 1312
cease activity as a loan officer. 1313

(2) On and after January 1, 2003, the loan officer has 1314
completed, during the immediately preceding calendar year, at 1315
least six hours of continuing education as required under section 1316
1322.052 of the Revised Code. 1317

(3) The applicant meets the conditions set forth in divisions 1318
(A)(2) to ~~(5)~~(6) of this section. 1319

(4) The applicant's license is not subject to an order of 1320
suspension or revocation by the superintendent. 1321

(C)(1) Subject to division (C)(2) of this section, if a 1322
license renewal application or renewal fee is received by the 1323
superintendent after the thirtieth day of April, the license shall 1324
not be considered renewed, and the applicant shall cease activity 1325
as a loan officer. 1326

(2) Division (C)(1) of this section shall not apply if the 1327
applicant, no later than the thirty-first day of May, submits the 1328

renewal application and fee and a one-hundred-dollar penalty to 1329
the superintendent. 1330

Sec. 1322.051. (A) Each person designated under division 1331
(A)(3) of section 1322.03 of the Revised Code to act as operations 1332
manager for a mortgage broker business shall submit to an 1333
examination approved by the superintendent of financial 1334
institutions. 1335

(B) Each ~~licensee, within ninety days after the original~~ 1336
~~issuance of the~~ applicant for a loan officer license, shall 1337
~~successfully complete~~ submit to an examination approved by the 1338
superintendent. ~~Failure to comply with this division results in~~ 1339
~~the termination of the license by operation of law.~~ 1340

Sec. 1322.06. (A) As often as the superintendent of financial 1341
institutions considers it necessary, the superintendent may 1342
examine the registrant's records pertaining to business transacted 1343
pursuant to sections 1322.01 to 1322.12 of the Revised Code. 1344

(B) A registrant shall maintain records pertaining to 1346
business transacted pursuant to sections 1322.01 to 1322.12 of the 1347
Revised Code, including copies of all mortgage loan origination 1348
disclosure statements prepared in accordance with section 1322.062 1349
of the Revised Code, for four years. No registrant shall fail to 1350
comply with this division. 1351

Sec. 1322.061. (A)(1) The following information is ~~privileged~~ 1352
~~and~~ confidential: 1353

(a) Examination information, and any information leading to 1354
or arising from an examination; 1355

(b) Investigation information, and any information arising 1356
from or leading to an investigation. 1357

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

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

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

(D) This section does not prevent the division from releasing information relating to registrants and licensees to the attorney general ~~for purposes relating to the attorney general's~~

~~administration of Chapter 1345. of the Revised Code, to the 1390~~
~~superintendent of real estate and professional licensing for 1391~~
~~purposes relating to the administration of Chapters 4735. and 1392~~
~~4763. of the Revised Code, to the superintendent of insurance for 1393~~
~~purposes relating to the administration of Chapter 3953. of the 1394~~
~~Revised Code, or to local law enforcement agencies and local 1395~~
~~prosecutors. Information the division releases to the attorney 1396~~
~~general pursuant to this section remains privileged and 1397~~
~~confidential, and the attorney general may not disclose the 1398~~
~~information or introduce the information into evidence unless the 1399~~
~~superintendent authorizes the disclosure or introduction into 1400~~
~~evidence in connection with the attorney general's administration 1401~~
~~of Chapter 1345. of the Revised Code. 1402~~

Sec. 1322.062. (A)(1) Within three business days after taking 1403
an application for a loan from a buyer, a registrant shall deliver 1404
to the buyer a mortgage loan origination disclosure statement that 1405
contains all of the following: 1406

(a) The name, address, and telephone number of the buyer; 1407

(b) The typewritten name of the loan officer and the number 1408
designated on the loan officer's license; 1409

(c) The street address, telephone number, and facsimile 1410
number of the registrant and the number designated on the 1411
registrant's certificate of registration; 1412

(d) The signature of the loan officer or registrant; 1413

(e) A statement indicating whether the buyer is to pay for 1414
the services of a bona fide third party if the registrant is 1415
unable to assist the buyer in obtaining a mortgage; 1416

(f) A statement that describes the method by which the fee to 1417
be paid by the buyer to the registrant will be calculated and a 1418
good faith estimate of the total amount of that fee; 1419

(g) A statement that the lender may pay compensation to the 1420
registrant; 1421

(h) A description of all the services the registrant has 1422
agreed to perform for the buyer; 1423

(i) A statement that the buyer has not entered into an 1424
exclusive agreement for brokerage services; 1425

(j) If the loan applied for will exceed ninety per cent of 1426
the value of the real property, a statement, printed in boldface 1427
type of the minimum size of sixteen points, as follows: "You are 1428
applying for a loan that is more than 90% of your home's value. It 1429
will be hard for you to refinance this loan. If you sell your 1430
home, you might owe more money on the loan than you get from the 1431
sale." 1432

(k) To acknowledge receipt, the signature of the buyer. 1433

(2) If the loan is a covered loan as defined in section 1434
1349.25 of the Revised Code, the registrant shall also deliver a 1435
copy of the mortgage loan origination disclosure statement to the 1436
lender. 1437

(B)(1) If there is any change in the information provided 1438
under division (A)(1)(f) ~~or (h)~~ of this section, the registrant 1439
shall provide the buyer with the revised mortgage loan origination 1440
disclosure statement and a written explanation of why the change 1441
occurred no later than ~~three days~~ twenty-four hours after the 1442
change occurs, or ~~the date~~ twenty-four hours before the loan is 1443
closed, whichever is earlier. 1444

(2) If an increase in the total amount of the fee to be paid 1445
by the buyer to the registrant is not disclosed in accordance with 1446
division (B)(1) of this section, the registrant shall refund to 1447
the buyer the amount by which the fee exceeds the amount 1448
previously estimated under division (A)(1)(f) of this section. If 1449

the fee is financed into the loan, the registrant shall also 1450
refund to the buyer the interest that would accrue over the term 1451
of the loan on that excess amount. 1452

(C) A registrant shall deliver to the buyer, immediately upon 1453
receipt, a copy of any credit score and report obtained regarding 1454
the buyer by the registrant for the purpose of the mortgage loan 1455
application; 1456

If the loan officer or registrant uses an automated valuation 1457
model to determine an appraisal report, the registrant also shall 1458
include a copy of the automated valuation model report. 1459

(D) A registrant shall deliver to the buyer, at the same time 1460
that the registrant delivers the mortgage loan origination 1461
disclosure statement pursuant to division (A) of this section, a 1462
good faith estimate statement that discloses the amount of or 1463
range of charges for the specific settlement services the buyer is 1464
likely to incur in connection with the mortgage loan. The good 1465
faith estimate statement shall meet the requirements of the "Real 1466
Estate Settlement Procedures Act," 88 Stat. 1724 (1974). 12 1467
U.S.C.A. 2601 et seq., and shall include the following underlined 1468
notice in at least ten point type, new roman style: 1469

"Nature of Relationship: In connection with this residential 1470
mortgage loan, you, the borrower(s), has/have requested assistance 1471
from (company name) in arranging credit. We do not 1472
distribute all products in the marketplace and cannot guarantee 1473
the lowest rate. 1474

Termination: This agreement will continue until one of the 1475
following events occur: 1476

1. The loan closes. 1477
2. The request is denied. 1478
3. The borrower withdraws the request. 1479

4. The borrower decides to use another source for 1480
origination. 1481

5. The borrower is provided a revised good faith estimate 1482
statement. 1483

Notice to borrower(s): Signing this document does not obligate you 1484
to obtain a mortgage loan through this mortgage originator nor is 1485
this a loan commitment or an approval; nor is your interest rate 1486
locked at this time unless otherwise disclosed on a separate Rate 1487
Lock Disclosure Form. Do not sign this document until you have 1488
read and understood the information in it. Fees received under 1489
this estimate are legal and permissible under the Real Estate 1490
Settlement Procedures Act. You will receive a re-disclosure of any 1491
increase in interest rate or if the total sum of disclosed 1492
settlement/closing costs increase by 10% or more of the original 1493
estimate. Should any such increase occur; mandatory re-disclosure 1494
must occur prior to the settlement or close of escrow." 1495

(E) No registrant shall fail to comply with this section. 1496

Sec. 1322.063. (A) In addition to the disclosures required 1497
under section 1322.062 of the Revised Code, a registrant shall, 1498
not later than twenty-four hours before a loan is closed, deliver 1499
to the buyer a written disclosure that includes the following: 1500

(1) A statement indicating whether property taxes and 1501
insurance will be escrowed; 1502

(2) A description of what is covered by the regular monthly 1503
payment, including principal, interest, taxes, and insurance, as 1504
applicable. 1505

(B) No registrant shall fail to comply with this section. 1506

Sec. 1322.064. (A) No registrant or licensee shall fail to do 1507
either of the following: 1508

(1) Timely inform the buyer of any material change in the terms of the loan. For purposes of division (A)(1) of this section, "material change" means the following: 1509
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1511

(a) A change in the type of loan being offered, such as a fixed or variable rate loan or a loan with a balloon payment; 1512
1513

(b) A change in the term of the loan, as reflected in the number of monthly payments due before a final payment is scheduled to be made; 1514
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(c) An increase in the interest rate of more than 0.15%; 1517

(d) An increase in the regular monthly payment of principal and interest of more than five per cent; 1518
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(e) A change regarding the escrow of taxes or insurance; 1520

(f) A change regarding the payment of private mortgage insurance. 1521
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(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. 1523
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(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. 1526
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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: 1531
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~~(A)~~(1) 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 1535
1536
1537

any substantial misrepresentation in any registration or license application; 1538
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~~(B)~~(2) 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; 1540
1541
1542
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~~(C)~~(3) Engage in conduct that constitutes improper, fraudulent, or dishonest dealings; 1544
1545

~~(D)~~(4) 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 involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities; 1546
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~~(E)~~(5) Knowingly make, propose, or solicit fraudulent, false, or misleading statements on any mortgage document or on any document related to a mortgage, including a mortgage application, real estate appraisal, or real estate settlement or closing document. For purposes of this division, "fraudulent, false, or misleading statements" does not include mathematical errors, inadvertent transposition of numbers, typographical errors, or any other bona fide error. 1553
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~~(F)~~(6) Knowingly instruct, solicit, propose, or otherwise cause a buyer to sign in blank a mortgage related document; 1561
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(7) Promise to refinance a loan in the future at a lower interest rate or with more favorable terms, unless the promise is set forth in writing and is initialed by the buyer. 1563
1564
1565

(B) No mortgage broker, registrant, or licensee, for the purpose of corrupting or improperly influencing the independent judgment of a person certified, licensed, or registered as a real 1566
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estate appraiser under section 4763.05 of the Revised Code, shall 1569
knowingly bribe, coerce, or extort a person certified, licensed, 1570
or registered as a real estate appraiser under section 4763.05 of 1571
the Revised Code. However, a lender, mortgage banker, or mortgage 1572
broker is not prohibited from asking the appraiser to consider 1573
additional appropriate property information, to provide further 1574
detail, substantiation or explanation for the appraiser's value 1575
conclusion, or to correct errors in the appraisal report. 1576

Sec. 1322.074. (A) As used in this section and section 1577
1322.075 of the Revised Code: 1578

(1) "Appraisal company" means a sole proprietorship, 1579
partnership, corporation, limited liability company, or any other 1580
business entity or association, that employs or retains the 1581
services of a person licensed or certified under Chapter 4763. of 1582
the Revised Code for purposes of performing residential real 1583
estate appraisals for mortgage loans. 1584

(2) "Immediate family" means a spouse residing in the 1585
person's household and any dependent child. 1586

(B) Except as otherwise provided in division (C) of this 1587
section, no registrant, or any member of the registrant's 1588
immediate family, shall own or control a majority interest in an 1589
appraisal company. 1590

(C) Division (B) of this section shall not apply to any 1591
registrant, or any member of the registrant's immediate family, 1592
who, on the effective date of this section, owns or controls a 1593
majority interest in an appraisal company. However, such ownership 1594
or control is subject to the following conditions: 1595

(1) The registrant and members of the registrant's immediate 1596
family shall not increase their interest in the company. 1597

(2) The interest is not transferable to a member of the 1598

registrant's immediate family.

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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.

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Sec. 1322.075. (A) No registrant or licensee or person required to be registered or licensed under Chapter 1322. of the Revised Code shall refer a buyer to any settlement service provider, including any title insurance company, without providing the buyer with written notice disclosing all of the following:

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

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

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

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(4) The following statement, printed in boldface type of the minimum size of sixteen points, and in all capital letters: "THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT

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YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE 1629
SERVICES." 1630

(B) No registrant or licensee shall refer a buyer to an 1631
appraisal company, if the registrant or licensee, or a member of 1632
the registrant's or licensee's immediate family, has either of the 1633
following financial relationships with the appraisal company: 1634

(1) An ownership or investment interest in the company or 1635
agent, whether through debt, equity, or other means; 1636

(2) Any compensation arrangement involving any remuneration, 1637
directly or indirectly, overtly or covertly, in cash or in kind. 1638

(C) No registrant or licensee shall knowingly enter into an 1639
arrangement or scheme, including a cross-referral arrangement, 1640
that has a principal purpose of assuring referrals by a registrant 1641
or licensee to a particular appraisal company that would violate 1642
division (B) of this section. 1643

(D) The registrant, licensee, or person required to be 1644
registered or licensed under Chapter 1322. of the Revised Code, 1645
shall retain proof that the buyer received the written disclosures 1646
required by division (A) of this section for four years. 1647

Sec. 1322.081. (A) A registrant, licensee, and any person 1648
required to be registered or licensed under this chapter has a 1649
fiduciary duty with respect to any funds received from or on 1650
behalf of the buyer and shall use the funds only for the purposes 1651
consistent with this chapter. 1652

(B) In addition to the requirements and prohibitions imposed 1653
by this chapter, a registrant, licensee, and any person required 1654
to be registered or licensed under this chapter shall follow 1655
reasonable and lawful instructions from the buyer, act with 1656
reasonable skill, care, and diligence, and make reasonable efforts 1657
with lenders with whom the registrant or licensee regularly does 1658

business to secure a loan that is reasonably advantageous to the 1659
borrower considering all the circumstances, including the rates, 1660
charges, and repayment terms of the loan and the loan options for 1661
which the borrower qualifies with these lenders. 1662

(C) If a buyer is approved for more than one loan product or 1663
by more than one lender, the registrant, licensee, or person who 1664
is required to be registered or licensed shall present each option 1665
to the buyer, who shall not be hindered from choosing the option 1666
the buyer deems to best suit the buyer's needs, situation, or 1667
goals. 1668

(D) The fiduciary duty and standards of care created in this 1669
section cannot be waived or modified. 1670

Sec. 1322.10. (A) After notice and opportunity for a hearing 1671
conducted in accordance with Chapter 119. of the Revised Code, the 1672
superintendent of financial institutions may do the following: 1673

(1) Suspend, revoke, or refuse to issue or renew a 1674
certificate of registration or license if the superintendent finds 1675
either of the following: 1676

(a) A violation of or failure to comply with any provision of 1677
sections 1322.01 to 1322.12 of the Revised Code or the rules 1678
adopted under those sections or any other law applicable to the 1679
business conducted under a certificate of registration; 1680

(b) A conviction of or guilty plea to any criminal offense 1681
involving theft, receiving stolen property, embezzlement, forgery, 1682
fraud, passing bad checks, money laundering, or drug trafficking, 1683
or any criminal offense involving money or securities. 1684

(2) Impose a fine of not more than one thousand dollars, for 1685
each day a violation of a law or rule is committed, repeated, or 1686
continued. If the registrant or licensee engages in a pattern of 1687
repeated violations of a law or rule, the superintendent may 1688

impose a fine of not more than two thousand dollars for each day 1689
the violation is committed, repeated, or continued. All fines 1690
collected pursuant to this division shall be paid to the treasurer 1691
of state to the credit of the consumer finance fund created in 1692
section 1321.21 of the Revised Code. In determining the amount of 1693
a fine to be imposed pursuant to this division, the superintendent 1694
shall consider all of the following: 1695

(a) The seriousness of the violation; 1696

(b) The registrant's or licensee's good faith efforts to 1697
prevent the violation; 1698

(c) The registrant's or licensee's history regarding 1699
violations and compliance with division orders; 1700

(d) The registrant's or licensee's financial resources; 1701

(e) Any other matters the superintendent considers 1702
appropriate in enforcing sections 1322.01 to 1322.12 of the 1703
Revised Code. 1704

(B) The superintendent may investigate alleged violations of 1705
sections 1322.01 to 1322.12 of the Revised Code or the rules 1706
adopted under those sections or complaints concerning any such 1707
violation. The superintendent may make application to the court of 1708
common pleas for an order enjoining any such violation, and, upon 1709
a showing by the superintendent that a person has committed or is 1710
about to commit such a violation, the court shall grant an 1711
injunction, restraining order, or other appropriate relief. 1712

(C) In conducting any investigation pursuant to this section, 1713
the superintendent may compel, by subpoena, witnesses to testify 1714
in relation to any matter over which the superintendent has 1715
jurisdiction and may require the production of any book, record, 1716
or other document pertaining to that matter. If a person fails to 1717
file any statement or report, obey any subpoena, give testimony, 1718

produce any book, record, or other document as required by a 1719
subpoena, or permit photocopying of any book, record, or other 1720
document subpoenaed, the court of common pleas of any county in 1721
this state, upon application made to it by the superintendent, 1722
shall compel obedience by attachment proceedings for contempt, as 1723
in the case of disobedience of the requirements of a subpoena 1724
issued from the court or a refusal to testify therein. 1725

(D) If the superintendent determines that a person is engaged 1726
in or is believed to be engaged in activities that may constitute 1727
a violation of sections 1322.01 to 1322.12 of the Revised Code, 1728
the superintendent, after notice and a hearing conducted in 1729
accordance with Chapter 119. of the Revised Code, may issue a 1730
cease and desist order. Such an order shall be enforceable in the 1731
court of common pleas. 1732

(E) If the superintendent revokes the certificate of 1733
registration or license of a registrant or licensee who is 1734
convicted of or pleads guilty to a criminal violation of any 1735
provision of sections 1322.01 to 1322.12 of the Revised Code or 1736
any criminal offense described in division (A)(1)(b) of this 1737
section, the revocation shall be permanent. 1738

(F)(1) To protect the public interest, the superintendent 1739
may, without a prior hearing, do any of the following: 1740

(a) Suspend the certificate of registration or license of a 1741
registrant or licensee who is convicted of or pleads guilty to a 1742
criminal violation of any provision of sections 1322.01 to 1322.12 1743
of the Revised Code or any criminal offense described in division 1744
(A)(1)(b) of this section; 1745

(b) Suspend the certificate of registration of a registrant 1746
who violates division (F) of section 1322.05 of the Revised Code; 1747

(c) Require a registrant or licensee, or an applicant for a 1748
certificate of registration or license, in lieu of school 1749

transcripts, to provide a written statement that they have met the 1750
education requirements of section 1322.03 or 1322.031 of the 1751
Revised Code; 1752

(d) Conduct an investigation of qualifying education 1753
transcripts, pursuant to sections 1322.03 and 1322.031 of the 1754
Revised Code, unannounced, at any registrant's or licensee's place 1755
of business and, if the registrant or licensee has failed to 1756
comply with the superintendent's request to inspect, immediately 1757
suspend the license of the loan officer for whose transcripts an 1758
inspection was requested. 1759

(2) The superintendent, without a prior hearing, shall 1760
suspend the certificate of registration or license of a registrant 1761
or licensee who has failed to meet the continuing education 1762
requirements of section 1322.052 of the Revised Code. Said 1763
suspension shall be until such time as the required continuing 1764
education is completed and designated to the appropriate reporting 1765
period and a fine of five hundred dollars is paid to the treasurer 1766
of state to the credit of the consumer finance fund, whichever is 1767
earlier; 1768

(3) The superintendent may, in accordance with Chapter 119. 1769
of the Revised Code, subsequently revoke any registration or 1770
license suspended under division (F)(1) of this section. 1771

Sec. 1322.11. (A)(1) A buyer injured by a violation of 1772
section 1322.02, 1322.062, 1322.063, 1322.064, 1322.07, 1322.071, 1773
1322.08, 1322.081, or 1322.09 of the Revised Code may bring an 1774
action for recovery of damages. 1775

(2) Damages awarded under division (A)(1) of this section 1776
shall not be less than ~~the amount paid by the buyer to the~~ 1777
~~mortgage broker~~ all compensation paid directly to a mortgage 1778
broker from any source, plus reasonable attorney's fees and court 1779

costs. 1780

(3) The buyer may be awarded punitive damages. 1781

(B)(1) The superintendent of financial institutions, ~~the~~ 1782
~~attorney general,~~ or a buyer may directly bring an action to 1783
enjoin a violation of sections 1322.01 to 1322.12 of the Revised 1784
Code. The attorney general may directly bring an action to enjoin 1785
a violation of sections 1322.01 to 1322.12 of the Revised Code 1786
with the same rights, privileges, and powers as those described in 1787
section 1345.06 of the Revised Code. The prosecuting attorney of 1788
the county in which the action may be brought may bring an action 1789
to enjoin a violation of sections 1322.01 to 1322.12 of the 1790
Revised Code only if the prosecuting attorney first presents any 1791
evidence of the violation to the attorney general and, within a 1792
reasonable period of time, the attorney general has not agreed to 1793
bring the action. 1794

(2) The superintendent may initiate criminal proceedings 1795
under sections 1322.01 to 1322.12 of the Revised Code by 1796
presenting any evidence of criminal violation to the prosecuting 1797
attorney of the county in which the offense may be prosecuted. If 1798
the prosecuting attorney does not prosecute the violations, or at 1799
the request of the prosecuting attorney, the superintendent shall 1800
present any evidence of criminal violations to the attorney 1801
general, who may proceed in the prosecution with all the rights, 1802
privileges, and powers conferred by law on prosecuting attorneys, 1803
including the power to appear before grand juries and to 1804
interrogate witnesses before such grand juries. These powers of 1805
the attorney general shall be in addition to any other applicable 1806
powers of the attorney general. 1807

(3) The prosecuting attorney of the county in which an 1808
alleged offense may be prosecuted may initiate criminal 1809
proceedings under sections 1322.01 to 1322.12 of the Revised Code. 1810

(4) In order to initiate criminal proceedings under sections 1811
1322.01 to 1322.12 of the Revised Code, the attorney general shall 1812
first present any evidence of criminal violations to the 1813
prosecuting attorney of the county in which the alleged offense 1814
may be prosecuted. If, within a reasonable period of time, the 1815
prosecuting attorney has not agreed to prosecute the violations, 1816
the attorney general may proceed in the prosecution with all the 1817
rights, privileges, and powers described in division (B)(2) of 1818
this section. 1819

(5) When a judgment under this section becomes final, the 1820
clerk of court shall mail a copy of the judgment, including 1821
supporting opinions, to the superintendent. 1822

(C) The remedies provided by this section are in addition to 1823
any other remedy provided by law. 1824

(D) In any proceeding or action brought under sections 1825
1322.01 to 1322.12 of the Revised Code, the burden of proving an 1826
exemption under those sections is on the person claiming the 1827
benefit of the exemption. 1828

(E) No person shall be deemed to violate sections 1322.01 to 1829
1322.12 of the Revised Code with respect to any act taken or 1830
omission made in reliance on a written notice, written 1831
interpretation, or written report from the superintendent, unless 1832
there is a subsequent amendment to those sections, or rules 1833
promulgated thereunder, that affects the superintendent's notice, 1834
interpretation, or report. 1835

(F) Upon disbursement of mortgage loan proceeds to or on 1836
behalf of the buyer, the registrant that assisted the buyer to 1837
obtain the mortgage loan is deemed to have completed the 1838
performance of the registrant's services for the buyer and owes no 1839
additional duties or obligations to the buyer with respect to the 1840
mortgage loan. However, nothing in this division shall be 1841

construed to limit or preclude the civil or criminal liability of 1842
a registrant for failing to comply with sections 1322.01 to 1843
1322.12 of the Revised Code or any rule adopted under those 1844
sections, for failing to comply with any provision of or duty 1845
arising under an agreement with a buyer or lender under sections 1846
1322.01 to 1322.12 of the Revised Code, or for violating any other 1847
provision of state or federal law. 1848

Sec. 1322.99. (A) Whoever violates division (A)(1) or (2) of 1849
section 1322.02, division (E) ~~or~~, (F), or (G) of section 1322.07, 1850
division (B)(1) or (2) of section 1322.071, or section 1322.08 of 1851
the Revised Code is guilty of a felony of the fifth degree. 1852

(B) Whoever violates division (B)(3) of section 1322.071 of 1853
the Revised Code is guilty of a felony of the fourth degree. 1854

(C) Whoever violates division (B) of section 1322.02 of the 1855
Revised Code is guilty of a misdemeanor of the first degree. 1856

Sec. 1349.25. As used in sections 1349.25 to ~~1349.37~~ 1349.44 1857
of the Revised Code: 1858

(A) "Actuarial method" means the method of allocating 1859
payments made on a debt between the amount financed and the 1860
finance charge pursuant to which a payment is applied first to the 1861
accumulated finance charge and any remainder is subtracted from, 1862
or any deficiency is added to, the unpaid balance of the amount 1863
financed. 1864

(B) "Consumer" means a natural person to whom credit is 1865
offered or extended primarily for personal, family, or household 1866
purposes. 1867

(C) "Consummation" means the time that a consumer becomes 1868
contractually obligated on a credit transaction. 1869

(D) "Covered loan" means a consumer credit mortgage loan 1870

transaction that meets ~~both~~ all of the following criteria: 1871

(1) The loan involves property located within this state. 1872

(2) The loan is considered a mortgage under section 152(a) of 1873
the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 1874
2190, 15 U.S.C.A. 1602(aa), as amended, ~~and the regulations~~ 1875
~~adopted thereunder by the federal reserve board, as amended.~~ 1876

(3) The loan is related to a consumer credit transaction that 1877
is secured by the consumer's principal dwelling, and in which 1878
either: 1879

(a) The annual percentage rate at consummation exceeds by 1880
more than eight percentage points for first-lien loans, or by more 1881
than ten percentage points for subordinate-lien loans, the yield 1882
on treasury securities having comparable periods of maturity to 1883
the loan maturity as of the fifteenth day of the month immediately 1884
preceding the month in which the application for the extension of 1885
credit is received by the creditor; 1886

(b) The total points and fees payable by the consumer at or 1887
before loan closing exceed the greater of five per cent of the 1888
total loan amount, or five hundred twenty-eight dollars; the five 1889
hundred twenty-eight dollar amount shall be adjusted annually on 1890
the first day of January by the superintendent of financial 1891
institutions based on the annual percentage change in the consumer 1892
price index that was reported on the preceding first day of June. 1893

(E) "Credit" means the right granted by a creditor to a 1894
debtor to defer payment of debt or to incur debt and defer its 1895
payment. 1896

(F) "Creditor" has the same meaning as in section 152(c) of 1897
the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 1898
2190, 15 U.S.C.A. 1602(f), as amended, and the regulations adopted 1899
thereunder by the federal reserve board, as amended. 1900

(G) "Person" means a natural person, partnership, 1901
association, trust, corporation, or any other legal entity. 1902

(H) "Loan officer" has the same meaning as in section 1322.01 1903
of the Revised Code, except that it does not include an employee 1904
of a bank, savings bank, savings and loan association, credit 1905
union, or credit union service organization organized under the 1906
laws of this state, another state, or the United States; an 1907
employee of a subsidiary of such a bank, savings bank, savings and 1908
loan association, or credit union; or an employee of an affiliate 1909
that (1) controls, is controlled by, or is under common control 1910
with, such a bank, savings bank, savings and loan association, or 1911
credit union and (2) is subject to examination, supervision, and 1912
regulation, including with respect to the affiliate's compliance 1913
with applicable consumer protection requirements, by the board of 1914
governors of the federal reserve system, the comptroller of the 1915
currency, the office of thrift supervision, the federal deposit 1916
insurance corporation, or the national credit union 1917
administration. 1918

(I) "Mortgage" means any indebtedness secured by a deed of 1919
trust, security deed, or other lien on real property. 1920

(J) "Mortgage broker" has the same meaning as in section 1921
1322.01 of the Revised Code, except that it does not include a 1922
bank, savings bank, savings and loan association, credit union, or 1923
credit union service organization organized under the laws of this 1924
state, another state, or the United States; a subsidiary of such a 1925
bank, savings bank, savings and loan association, or credit union; 1926
an affiliate that (1) controls, is controlled by, or is under 1927
common control with, such a bank, savings bank, savings and loan 1928
association, or credit union and (2) is subject to examination, 1929
supervision, and regulation, including with respect to the 1930
affiliate's compliance with applicable consumer protection 1931
requirements, by the board of governors of the federal reserve 1932

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. 1933
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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. 1937
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(L) For purposes of divisions (H), (J), and (K) of this section: 1952
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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. 1954
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(2) "Credit union service organization" means a CUSO as defined in 12 C.F.R. 702.2. 1959
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(M) "Consumer home loan" means a loan in which the borrower is a natural person, the debt is incurred by the borrower primarily for personal, family, or household purposes, and the 1961
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1963

loan is secured by a mortgage or deed of trust upon real estate 1964
upon which there is located or there is to be located a structure 1965
or structures designed principally for occupancy of from one to 1966
four families which is or will be occupied by the borrower as the 1967
borrower's principal dwelling. 1968

(N) "Consumer transaction" means a loan transaction between a 1969
loan officer, mortgage broker, or nonbank mortgage lender and 1970
their customers. 1971

(O) "Supplier" means a loan officer, mortgage broker, or 1972
nonbank mortgage lender but does not include any transferee, 1973
assignee, or holder of any consumer transaction. 1974

(P) "Enforcement actions" means administrative and judicial 1975
actions that are in the public record. 1976

(Q) "Knowledge" means actual awareness. Actual awareness may 1977
be inferred where objective manifestations indicate that the 1978
individual involved acted with such awareness. 1979

Sec. 1349.27. A creditor shall not do any of the following: 1980

(A) Make a covered loan that includes any of the following: 1981

(1) Terms under which a consumer must pay a prepayment 1982
penalty for paying all or part of the principal before the date on 1983
which the principal is due. For purposes of division (A)(1) of 1984
this section, any method of computing a refund of unearned 1985
scheduled interest is a prepayment penalty if it is less favorable 1986
to the consumer than the actuarial method. 1987

Division (A)(1) of this section does not apply to a 1988
prepayment penalty imposed in accordance with section 129(c)(2) of 1989
the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 1990
2190, 15 U.S.C.A. 1639(c)(2), as amended, and the regulations 1991
adopted thereunder by the federal reserve board, as amended. 1992

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

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

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

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

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(C) Make a covered loan having a term of less than five years that includes terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance. This division does not apply to any covered loan with a maturity of less than one year, if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the consumer's principal dwelling.

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

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

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(1) By an instrument that is payable to the consumer or

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jointly to the consumer and the contractor; 2023

(2) At the election of the consumer, by a third party escrow 2024
agent in accordance with terms established in a written agreement 2025
signed by the consumer, the creditor, and the contractor before 2026
the date of payment. 2027

(F) On or after October 1, 2002, make a covered loan that 2028
includes a demand feature that permits the creditor to terminate 2029
the loan in advance of the original maturity date and to demand 2030
repayment of the entire outstanding balance, except in any of the 2031
following circumstances: 2032

(1) There is fraud or material misrepresentation by the 2033
consumer in connection with the loan. 2034

(2) The consumer fails to meet the repayment terms of the 2035
agreement for any outstanding balance. 2036

(3) There is any action or inaction by the consumer that 2037
adversely affects the creditor's security for the loan or any 2038
right of the creditor in that security. 2039

(G)(1) Within one year after having made a covered loan, 2040
refinance a covered loan to the same borrower into another covered 2041
loan, unless the refinancing is in the consumer's interest. An 2042
assignee holding or servicing a covered loan shall not, for the 2043
remainder of the one-year period following the date of origination 2044
of the covered loan, refinance any covered loan to the same 2045
consumer into another covered loan, unless the refinancing is in 2046
the consumer's interest. 2047

A creditor or assignee shall not engage in acts or practices 2048
to evade division (G)(1) of this section, including a pattern or 2049
practice of arranging for the refinancing of its own loans by 2050
affiliated or unaffiliated creditors, or modifying a loan 2051
agreement, whether or not the existing loan is satisfied and 2052

replaced by the new loan, and charging a fee.

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

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

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(I) Finance, directly or indirectly, into a covered loan or
finance to the same borrower within thirty days of a covered loan
any credit life or credit disability insurance premiums sold in
connection with the covered loan, provided that any credit life or
credit disability insurance premiums calculated and paid on a
monthly or other periodic basis shall not be considered financed
by the person originating the loan. For purposes of this division,
credit life or credit disability insurance does not include a
contract issued by a government agency or private mortgage
insurance company to insure the lender against loss caused by a
mortgagor's default.

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

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Sec. 1349.31. (A)(1) No creditor shall willfully and 2084
knowingly fail to comply with section 1349.26 or 1349.27 of the 2085
Revised Code. For purposes of division (A)(1) of this section, 2086
"willfully and knowingly" has the same meaning as in section 112 2087
of the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C.A. 2088
1611, as amended. 2089

(2) Whoever violates division (A)(1) of this section is 2090
guilty of a felony of the fifth degree. 2091

(B) The superintendent of financial institutions may directly 2092
bring an action to enjoin a violation of this section. The 2093
attorney general may directly bring an action to enjoin a 2094
violation of this section with the same rights, privileges, and 2095
powers as those described in section 1345.06 of the Revised Code. 2096
The prosecuting attorney of the county in which the action may be 2097
brought may bring an action to enjoin a violation of this section 2098
only if the prosecuting attorney first presents any evidence of 2099
the violation to the attorney general and, within a reasonable 2100
period of time, the attorney general has not agreed to bring the 2101
action. 2102

(C)(1) The superintendent of financial institutions may 2103
initiate criminal proceedings under this section by presenting any 2104
evidence of criminal violations to the prosecuting attorney of the 2105
county in which the offense may be prosecuted. If the prosecuting 2106
attorney does not prosecute the violations, or at the request of 2107
the prosecuting attorney, the superintendent shall present any 2108
evidence of criminal violations to the attorney general, who may 2109
proceed in the prosecution with all the rights, privileges, and 2110
powers conferred by law on prosecuting attorneys, including the 2111
power to appear before grand juries and to interrogate witnesses 2112
before such grand juries. These powers of the attorney general 2113
shall be in addition to any other applicable powers of the 2114

attorney general. 2115

(2) The prosecuting attorney of the county in which an 2116
alleged offense may be prosecuted may initiate criminal 2117
proceedings under this section. 2118

(3) In order to initiate criminal proceedings under this 2119
section, the attorney general shall first present any evidence of 2120
criminal violations to the prosecuting attorney of the county in 2121
which the alleged offense may be prosecuted. If, within a 2122
reasonable period of time, the prosecuting attorney has not agreed 2123
to prosecute the violations, the attorney general may proceed in 2124
the prosecution with all the rights, privileges, and powers 2125
described in division (C)(1) of this section. 2126

Sec. 1349.38. (A) No supplier shall commit an unfair or 2127
deceptive act or practice in connection with a consumer 2128
transaction. Such an unfair or deceptive act or practice by a 2129
supplier violates this section whether it occurs before, during, 2130
or after the transaction. 2131

(B) Without limiting the scope of division (A) of this 2132
section, the act or practice of a supplier in representing any of 2133
the following is deceptive: 2134

(1) That the subject of a consumer transaction has 2135
sponsorship, approval, performance characteristics, accessories, 2136
uses, or benefits that it does not have; 2137

(2) That the subject of a consumer transaction is of a 2138
particular standard, quality, grade, style, prescription, or 2139
model, if it is not; 2140

(3) That the subject of a consumer transaction is new, or 2141
unused, if it is not; 2142

(4) That the subject of a consumer transaction is available 2143
to the consumer for a reason that does not exist; 2144

(5) That the subject of a consumer transaction has been 2145
supplied in accordance with a previous representation, if it has 2146
not, except that the act of a supplier in furnishing similar 2147
merchandise of equal or greater value as a good faith substitute 2148
does not violate this section; 2149

(6) That the subject of a consumer transaction will be 2150
supplied in greater quantity than the supplier intends; 2151

(7) That replacement or repair is needed, if it is not; 2152

(8) That a specific price advantage exists, if it does not; 2153

(9) That the supplier has a sponsorship, approval, or 2154
affiliation that the supplier does not have; 2155

(10) That a consumer transaction involves or does not involve 2156
a warranty, a disclaimer of warranties or other rights, remedies, 2157
or obligations if the representation is false. 2158

(C) In construing division (A) of this section, the court 2159
shall give due consideration and great weight to federal trade 2160
commission orders, trade regulation rules and guides, and the 2161
federal courts' interpretations of subsection 45 (a)(1) of the 2162
"Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 2163
41, as amended. 2164

(D) No supplier shall offer to a consumer or represent that a 2165
consumer will receive a rebate, discount, or other benefit as an 2166
inducement for entering into a consumer transaction in return for 2167
giving the supplier the names of prospective consumers, or 2168
otherwise helping the supplier to enter into other consumer 2169
transactions, if earning the benefit is contingent upon an event 2170
occurring after the consumer enters into the transaction. 2171

(E) In addition to those acts or practices listed in division 2172
(B) of this section, the following acts or practices of a supplier 2173
in connection with a consumer transaction are an unfair or 2174

<u>deceptive act or practice:</u>	2175
<u>(1) Failing to clearly and conspicuously disclose to the</u>	2176
<u>consumer, in a consumer transaction subject to the disclosure</u>	2177
<u>requirements of the "Real Estate Settlement Procedures Act of</u>	2178
<u>1974," 88 Stat. 1724, 12 U.S.C. 2601 et seq., that the lender is</u>	2179
<u>paying a yield spread premium or any other type of compensation to</u>	2180
<u>a mortgage broker. A supplier that complies with the disclosure</u>	2181
<u>requirements of the "Real Estate Settlement Procedures Act of</u>	2182
<u>1974," 88 Stat. 1724, 12 U.S.C. 2601 et seq., and the disclosure</u>	2183
<u>requirements of section 1322.062 of the Revised Code shall be</u>	2184
<u>deemed to be in compliance with this division.</u>	2185
<u>(2) Arranging for or making a consumer transaction that</u>	2186
<u>provides for an interest rate applicable after default that is</u>	2187
<u>higher than the interest rate that applies before default,</u>	2188
<u>excluding rates of interest for judgments and also excluding</u>	2189
<u>interest rate changes in a variable rate loan transaction</u>	2190
<u>otherwise consistent with the provisions of the loan documents;</u>	2191
<u>(3) Engaging in a pattern or practice of providing consumer</u>	2192
<u>transactions to consumers based predominantly on the supplier's</u>	2193
<u>realization of the foreclosure or liquidation value of the</u>	2194
<u>consumer's collateral without regard to the consumer's ability to</u>	2195
<u>repay the loan in accordance with its terms, provided that the</u>	2196
<u>supplier may use any reasonable method to determine a borrower's</u>	2197
<u>ability to repay;</u>	2198
<u>(4) Making a consumer transaction that includes a demand</u>	2199
<u>feature that permits the creditor to terminate the consumer</u>	2200
<u>transaction in advance of the original maturity date and to demand</u>	2201
<u>repayment of the entire outstanding balance, except in any of the</u>	2202
<u>following circumstances:</u>	2203
<u>(a) There is fraud or material misrepresentation by the</u>	2204
<u>consumer in connection with the consumer transaction.</u>	2205

<u>(b) The consumer fails to comply with the material terms of the agreement.</u>	2206
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<u>(c) Collateral securing the consumer transaction is adversely affected.</u>	2208
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<u>(5) Knowingly replacing or consolidating a zero interest rate or other low-rate consumer transaction made by a governmental or nonprofit lender with another loan of the low-rate loan unless the current holder of the loan consents in writing to the refinancing. For purposes of division (E)(5) of this section, a "low-rate consumer transaction" means a consumer transaction that carries a current interest rate two percentage points or more below the current yield on United States treasury securities with a comparable maturity. If the loan's current interest rate is either a discounted introductory rate or a rate that automatically steps up over time, the fully indexed rate or the fully stepped-up rate, as applicable, shall be used, in lieu of the current rate, to determine whether a loan is a low-rate loan.</u>	2210
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<u>(6) Instructing the consumer to ignore the supplier's written information regarding the interest rate and dollar value of points because they would be lower for the consumer's consumer transaction;</u>	2223
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<u>(7) Misrepresenting and failing to disclose any points and fees charged and retained by the supplier associated with a consumer transaction;</u>	2227
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<u>(8) Recommending or encouraging a consumer to default on a mortgage or any consumer transaction or revolving credit loan agreement;</u>	2230
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<u>(9) Charging a late fee more than once with respect to a single late payment. If a late payment fee is deducted from a payment made on the loan and such deduction causes a subsequent default on a subsequent payment, no late payment fee may be</u>	2233
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imposed for such default. If a late payment fee has been imposed 2237
once with respect to a particular late payment no such fee may be 2238
imposed with respect to any future payment that would have been 2239
timely and sufficient, but for the previous default. 2240

(10) Failing to disclose all the charges to the consumer at 2241
the closing of the consumer transaction in accordance with 2242
applicable law; 2243

(11) Making written representations concerning a closed-end 2244
consumer transaction about interest rates other than the contract 2245
rate and the annual percentage rate, and other default rates 2246
permitted by law; 2247

(12) If applicable, failing to disclose to the consumer in 2248
the closed-end consumer transaction that making minimum payments 2249
will not fully amortize the loan by the end of its term and will 2250
result in a balloon payment at the end of the term. The supplier 2251
shall disclose at the closing the full amount of the balloon 2252
payment and the payment required to pay off the consumer 2253
transaction by the end of the term if no further advances other 2254
than any initial advance are taken. 2255

(13) Failing to disclose at the closing of the consumer 2256
transaction any prepayment penalty in that consumer transaction; 2257

(14) Failing to provide payoff information on all underlying 2258
liens the supplier holds to the consumer or the consumer's 2259
authorized representative, within five business days of a 2260
consumer's written request, or as specifically permitted by state 2261
or federal law. Requests by mortgage brokers or other agents must 2262
be in writing and must include a written authorization from the 2263
consumer to provide the requested information. If applicable, a 2264
supplier shall provide, as promptly and accurately as is 2265
practicable, payoff information requested directly by a consumer 2266
in person at a branch location. 2267

(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; 2268
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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 consumer has put into the property, if the consumer does not meet the obligations under the loan; 2275
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(17) Failing to disclose at the closing of a consumer transaction: 2281
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(a) In the case of a closed-end consumer transaction with a fixed rate of interest, the annual percentage rate, the amount of the monthly payments, and the amount of any balloon payment; 2283
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(b) In the case of any other closed-end consumer transaction, the annual percentage rate of the consumer transaction, the amount of the monthly payment, and a statement that the interest rate and monthly payment may increase; 2286
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(c) In the case of any other consumer transaction, disclosures required by the "Truth in Lending Act," 82 Stat. 146 (1968) 15 U.S.C. 1601 et seq. 2290
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(18) Arranging for or making a consumer transaction that includes terms under which more than two periodic payments required under the consumer transaction are consolidated and paid in advance from the loan proceeds provided to the consumer. 2293
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(19) Knowingly or intentionally making a material 2297

<u>misrepresentation or concealing material information regarding the</u>	2298
<u>terms or conditions of the transaction;</u>	2299
<u>(20) Knowingly bribing, coercing, or extorting a certificate</u>	2300
<u>holder or licensee for the purpose of corrupting or improperly</u>	2301
<u>influencing the independent judgment of the certificate holder or</u>	2302
<u>licensee. However, this section shall not prohibit a supplier from</u>	2303
<u>asking the appraiser to do one or more of the following:</u>	2304
<u>(a) Consider additional, appropriate property information;</u>	2305
<u>(b) Provide further detail, substantiation, or explanation</u>	2306
<u>for the appraiser's value conclusion;</u>	2307
<u>(c) Correct errors in the appraisal report.</u>	2308
<u>(F) A supplier or its assignee is not liable in any action</u>	2309
<u>brought under sections 1349.25 to 1349.44 of the Revised Code, if</u>	2310
<u>the supplier or its assignee shows by a preponderance of evidence</u>	2311
<u>that the compliance failure was not intentional and resulted from</u>	2312
<u>a bona fide error notwithstanding the maintenance of procedures</u>	2313
<u>reasonably adapted to avoid any such error. For the purposes of</u>	2314
<u>this division, "bona fide error" includes, but is not limited to,</u>	2315
<u>clerical, calculation, computer malfunction and programming, and</u>	2316
<u>printing errors.</u>	2317
<u>(G) The attorney general shall promulgate rules to create and</u>	2318
<u>publish a "Home Buyers Bill of Rights" based on the unfair or</u>	2319
<u>deceptive act or practice list in division (E) of this section and</u>	2320
<u>the rules promulgated by the superintendent of financial</u>	2321
<u>institutions pursuant to this section. The document shall be made</u>	2322
<u>available to lenders, loan officers, and mortgage brokers within</u>	2323
<u>six months of the effective date of this section. The document</u>	2324
<u>shall be presented to the consumer of a home mortgage in the state</u>	2325
<u>along with the good faith estimate in connection with a loan</u>	2326
<u>application. An acknowledgement of receipt is to be held by the</u>	2327
<u>lender, loan officer, and broker. The department of commerce and</u>	2328

the attorney general shall review this acknowledgment as part of 2329
any investigative process. 2330

(H) Where a supplier violates division (A) of this section, 2331
the consumer may, in an individual action, recover the consumer's 2332
damages. 2333

(I) For the purpose of this section, "knowingly" means having 2334
actual knowledge at the time of the transaction. 2335

Sec. 1349.39. (A) The attorney general shall make available 2336
for public inspection all rules and all other written statements 2337
of policy or interpretations adopted or used by the attorney 2338
general, or the superintendent of financial institutions under 2339
division (C) of this section, in the discharge of the attorney 2340
general's functions, together with all judgments, including 2341
supporting opinions, by courts of this state that determine the 2342
rights of the parties and concerning which appellate remedies have 2343
been exhausted, or lost by the expiration of the time for appeal, 2344
determining that specific acts or practices violate sections 2345
1349.25 to 1349.44 of the Revised Code; 2346

(B) The superintendent of the division of financial 2347
institutions, in consultation with the attorney general, may 2348
adopt, amend, and repeal substantive rules defining with 2349
reasonable specificity acts or practices that violate section 2350
1345.32 of the Revised Code. In adopting, amending, or repealing 2351
substantive rules defining acts or practices that violate section 2352
1345.32 of the Revised Code, due consideration and great weight 2353
shall be given to all of the following: 2354

(1) State and federal statutes, regulations, administrative 2355
agency interpretations, and case law; 2356

(2) Necessity of objective and specific standards for 2357
compliance; and, 2358

(3) Any potential negative impact on the secondary mortgage market; 2359
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(4) The extent to which the amendments and requirements of this section make more expensive the credit process and negatively impact the credit availability for Ohio consumers. 2361
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An explanation of these factors, and rationale, shall be published at the time a proposed amendment is published for comment under this section. 2364
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(C) In the conduct of public hearings authorized by this section, the attorney general may administer oaths, subpoena witnesses, adduce evidence, and require the production of relevant material. Upon failure of a person without lawful excuse to obey a subpoena or to produce relevant matter, the attorney general may apply to a court of common pleas for an order compelling compliance. 2367
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(D) The attorney general may request that an individual who refuses to testify or to produce relevant material on the ground that the testimony or matter may incriminate the individual be ordered by the court to provide the testimony or matter. With the exception of a prosecution for perjury and an action for damages under section 1345.07 or 1345.09 of the Revised Code, an individual who complies with a court order to provide testimony or matter, after asserting a privilege against self incrimination to which the individual is entitled by law, shall not be subjected to a criminal proceeding on the basis of the testimony or matter discovered through that testimony or matter. 2374
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(E) Any person may petition the attorney general requesting the adoption, amendment, or repeal of a rule. The attorney general shall prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition. Within sixty days of submission of a petition, the attorney 2385
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general shall either deny the petition in writing, stating the 2390
reasons for the denial, or initiate rule-making proceedings. There 2391
is no right to appeal from such denial of a petition. 2392

(F) All rules shall be adopted subject to Chapter 119. of the 2393
Revised Code. 2394

Sec. 1349.40. (A) For purposes of this section, a loan is 2395
considered to be in default if it is at least thirty days past 2396
due. 2397

(B) No claim or defense under this chapter may be asserted by 2398
the attorney general or any consumer against an assignee or 2399
purchaser of a mortgage loan for value unless any one of the 2400
following applies: 2401

(1) The violation was committed by the assignee or purchaser 2402
before such assignment or purchase. 2403

(2) The assignee or purchaser is affiliated by common control 2404
with the seller of the loan at the time of such assignment or 2405
purchase and the loan was in default at the time of such 2406
assignment or purchase. 2407

Sec. 1349.41. (A) Except as otherwise provided in this 2408
section, a lender and a borrower may agree on any terms as to the 2409
prepayment of a home loan. 2410

(B)(1) There shall be no prepayment fees or penalties with 2411
respect to any home loan made by a nonbank mortgage lender in 2412
which the principal amount borrowed is one hundred fifty thousand 2413
dollars or less, the borrower is a natural person, the borrower 2414
incurs the debt primarily for personal, family, or household 2415
purposes, and the loan is secured by a first mortgage or first 2416
deed of trust on real estate upon which there is located or there 2417
is to be located a structure or structures designed principally 2418

for occupancy by one to four families and which is occupied, or 2419
will be occupied, by the borrower as the borrower's principal 2420
dwelling. 2421

(2) Any prepayment penalty with respect to any home loan made 2422
by a nonbank mortgage lender, that meets all the conditions set 2423
forth in division (B)(1) of this section except that the loan 2424
amount exceeds one hundred fifty thousand dollars, shall not 2425
exceed two per cent of the original principal amount of the loan 2426
if the loan is paid in full prior to one year after the date the 2427
loan contract is executed. The penalty shall not exceed one per 2428
cent of the original principal amount of the loan if the loan is 2429
paid in full at any time from one year, but prior to two years 2430
after the date the loan contract is executed. Thereafter, no 2431
prepayment penalty may be changed. 2432

(C) The limitations on prepayment fees and penalties 2433
contained in division (B) of this section do not apply to the 2434
extent that state law limitations on prepayment fees and penalties 2435
are preempted by federal law or regulation. 2436

(D) No lender in a consumer home loan may finance, directly 2437
or indirectly, any credit life, disability, or unemployment 2438
insurance, or any other life or health insurance premiums. 2439
Insurance premiums calculated and paid on a monthly basis shall 2440
not be considered financed by the lender. 2441

(E) No lender may knowingly or intentionally engage in the 2442
unfair act or practice of "flipping" a consumer home loan. 2443
"Flipping" a consumer loan is making a consumer home loan that 2444
refinances an existing consumer home loan when the new loan does 2445
not have reasonable, tangible net benefit to the borrower 2446
considering all of the circumstances, including the terms of both 2447
the new and refinanced loans, the cost of the new loan, and the 2448
borrower's circumstances. This provision applies regardless of 2449

whether the interest rate, points, fees, and charges paid or 2450
payable by the borrower in connection with the refinancing exceed 2451
any thresholds specified in any section of the Revised Code. 2452

Sec. 1349.42. (A) A consumer who is harmed by a violation of 2453
sections 1349.25 to 1349.44 of the Revised Code shall have all the 2454
rights, actions, and remedies available to consumers under Chapter 2455
1345. of the Revised Code. 2456

(B) The attorney general shall have all the powers the 2457
attorney general is given under Chapter 1345. of the Revised Code 2458
to investigate violations of sections 1349.25 to 1349.44 of the 2459
Revised Code, to bring any actions related to those violations, 2460
and impose penalties of the type provided under Chapter 1345. of 2461
the Revised Code. 2462

(C) If a consumer transaction is secured by a mortgage loan, 2463
revocation of the consumer transaction in any action for 2464
rescission is only available to a consumer in an individual 2465
action, and shall occur for no reason other than one or more of 2466
the reasons set forth in the "Truth in Lending Act," 82 Stat. 146 2467
(1968), 15 U.S.C. 1635 not later than the time limit within which 2468
the right of rescission under the "Truth in Lending Act," 82 Stat. 2469
146 (1968), 15 U.S.C. 1635(f), as amended, expires. 2470

Sec. 1349.43. (A) The department of commerce shall establish 2471
and maintain an electronic database accessible through the 2472
internet that contains information on all of the following: 2473

(1) The enforcement actions taken by the superintendent of 2474
financial institutions for each violation of or failure to comply 2475
with any provision of sections 1322.01 to 1322.12 of the Revised 2476
Code, upon final disposition of the action; 2477

(2) The enforcement actions taken by the attorney general 2478
against loan officers, mortgage brokers, and nonbank mortgage 2479

<u>lenders, upon final disposition of each action;</u>	2480
<u>(3) All judgments by courts of this state, concerning which</u>	2481
<u>appellate remedies have been exhausted or lost by the expiration</u>	2482
<u>of the time for appeal, finding either of the following:</u>	2483
<u>(a) A violation of any provision of sections 1322.01 to</u>	2484
<u>1322.12 of the Revised Code;</u>	2485
<u>(b) That specific acts or practices by a loan officer,</u>	2486
<u>mortgage broker, or nonbank mortgage lender violate sections</u>	2487
<u>1349.25 to 1349.44 of the Revised Code.</u>	2488
<u>(B) The attorney general shall submit to the department, on</u>	2489
<u>the first day of each January, April, July, and October, a list of</u>	2490
<u>all enforcement actions and judgments described in divisions</u>	2491
<u>(A)(2) and (3)(b) of this section.</u>	2492
<u>(C) The department may adopt rules in accordance with Chapter</u>	2493
<u>119. of the Revised Code that are necessary to implement this</u>	2494
<u>section.</u>	2495
<u>(D) The electronic database maintained by the department</u>	2496
<u>pursuant to division (A) of this section shall not include</u>	2497
<u>information that, pursuant to section 1322.061 of the Revised</u>	2498
<u>Code, is confidential.</u>	2499
<u>Sec. 1349.44. (A) The superintendent of financial</u>	2500
<u>institutions shall report semiannually to the governor and the</u>	2501
<u>general assembly on the operations of the division of financial</u>	2502
<u>institutions with respect to the following:</u>	2503
<u>(1) Enforcement actions instituted by the superintendent for</u>	2504
<u>a violation of or failure to comply with any provision of sections</u>	2505
<u>1322.01 to 1322.12 of the Revised Code, and their final</u>	2506
<u>dispositions;</u>	2507
<u>(2) Suspensions, revocations, or refusals to issue or renew</u>	2508

<u>certificates of registration and licenses under sections 1322.01</u>	2509
<u>to 1322.12 of the Revised Code;</u>	2510
<u>(3) Outreach efforts of the office of consumer affairs to</u>	2511
<u>provide education regarding predatory lending, borrowing, and</u>	2512
<u>related financial topics.</u>	2513
<u>(B) The information required under divisions (A)(1) and (2)</u>	2514
<u>of this section does not include information that, pursuant to</u>	2515
<u>section 1322.061 of the Revised Code, is privileged and</u>	2516
<u>confidential.</u>	2517
<u>Sec. 1349.71.</u> (A) <u>There is hereby created a consumer</u>	2518
<u>financial education board, consisting of thirteen members,</u>	2519
<u>appointed by the governor with the advice and consent of the house</u>	2520
<u>and senate. One member shall be appointed from or representing</u>	2521
<u>each of the following:</u>	2522
<u>(1) The Ohio attorney general's office;</u>	2523
<u>(2) The department of commerce;</u>	2524
<u>(3) The department of education;</u>	2525
<u>(4) The Ohio housing finance agency;</u>	2526
<u>(5) Ohio primary school teachers;</u>	2527
<u>(6) Ohio secondary school teachers;</u>	2528
<u>(7) Ohio minority advocacy groups;</u>	2529
<u>(8) The Ohio bankers league;</u>	2530
<u>(9) The Ohio mortgage bankers association;</u>	2531
<u>(10) The Ohio credit union league;</u>	2532
<u>(11) Ohio community bankers association;</u>	2533
<u>(12) The Ohio real estate industry;</u>	2534
<u>(13) The Ohio mortgage brokers association.</u>	2535

(B) Geographically diverse representation of the state shall 2536
be considered in making appointments. Of the initial appointments 2537
to the board, five shall be for a term ending December 31, 2008, 2538
four shall be for a term ending December 31, 2009, and four shall 2539
be for a term ending December 31, 2010. Thereafter, terms of 2540
office are for three years, commencing on the first day of January 2541
and ending on the thirty-first day of December. Each member shall 2542
hold office from the date of the member's appointment until the 2543
end of the term for which the member the member is appointed. 2544
Prior to assuming the duties of office, each member shall 2545
subscribe to, and file with the secretary of state, the 2546
constitutional oath of office. Vacancies that occur on the board 2547
shall be filled in the manner prescribed for regular appointments 2548
to the board. A member appointed to fill a vacancy occurring prior 2549
to the expiration of the term for which the member's predecessor 2550
was appointed shall hold office for the remainder of that 2551
predecessor's term. A member shall continue in office subsequent 2552
to the expiration date of the member's term until the member's 2553
successor takes office or until sixty days have elapsed, whichever 2554
occurs first. No person shall serve as a member of the board for 2555
more than two consecutive terms. The governor may remove a member 2556
pursuant to section 3.04 of the Revised Code. 2557

(C) Annually, upon the qualification of the members appointed 2558
in that year, the board shall organize by selecting from its 2559
members a chairperson. The board shall meet at least once each 2560
calendar quarter to conduct its business with the place of future 2561
meetings to be decided by a vote of its members. Each member shall 2562
be provided with written notice of the time and place of each 2563
board meeting at least ten days prior to the scheduled date of the 2564
meeting. A majority of the members of the board constitutes a 2565
quorum to transact and vote on all business coming before the 2566
board. 2567

(D) Each member of the board shall receive an amount fixed 2568
pursuant to division (J) of section 124.15 of the Revised Code for 2569
each day employed in the discharge of the member's official 2570
duties, and the member's actual and necessary expenses incurred in 2571
the discharge of those duties. 2572

(E) The board is authorized to obtain services from any state 2573
agency including but not limited to the department of commerce or 2574
its successor agency. 2575

(F) The board shall assemble an advisory committee of 2576
representatives from the following organizations for the purpose 2577
of receiving recommendations on policy, rules, and activities of 2578
the board: 2579

(1) The department of aging; 2580

(2) The department of rehabilitation and correction; 2581

(3) The department of development; 2582

(4) The department of job and family services; 2583

(5) The Ohio school boards association; 2584

(6) The Ohio treasurer of state's office; 2585

(7) The county treasurers association of Ohio; 2586

(8) Teachers from Ohio rural school districts; 2587

(9) Ohio college professors; 2588

(10) Ohio university professors; 2589

(11) The Ohio board of regents; 2590

(12) The Ohio community development corporations association; 2591

(13) The Ohio council for economic education; 2592

(14) The jump start youth organization; 2593

(15) The Ohio state university extension service. 2594

Sec. 1349.72. (A) In addition to any other duties imposed on 2595
the consumer finance education board by section 1349.71 of the 2596
Revised Code, the board shall: 2597

(1) Analyze and investigate, on its own initiative, the 2598
policies and practices of state agencies, nonprofit entities and 2599
businesses, inasmuch as such policies and practices address 2600
financial literacy, access by state residents to financial 2601
information, education, and resources, prevention of foreclosures 2602
and bankruptcies, and pre- and post-purchase counseling and 2603
education for homebuyers; 2604

(2) Provide consultation and recommendations to the governor, 2605
the general assembly, state agencies, nonprofit entities and 2606
businesses based on the board's findings; 2607

(3) Coordinate and provide resources and assistance to state 2608
agencies, nonprofit entities and businesses in the furtherance of 2609
those entities' efforts to improve financial literacy, access by 2610
state residents to financial information, education, and 2611
resources, prevention of foreclosures and bankruptcies, and pre- 2612
and post-purchase counseling and education for homebuyers. 2613

(4) Provide financial assistance to Ohioans through grants 2614
funded through the reserves of the consumer finance fees section 2615
in the department of commerce and utilize these same funds to 2616
provide grants to design, develop, and implement any other 2617
programs described in this section. 2618

(5) Design a pilot program to develop a curriculum for 2619
inclusion in the education curriculum in public schools in Ohio, 2620
including but not limited to the following: 2621

(a) A course of study in the area of personal economics, 2622
including, but not limited to, instruction in financial planning, 2623
financial decision-making, and consumer credit designed to be 2624

completed in ten cumulative hours of instruction by each high 2625
school student. In developing that content, the board may use any 2626
part of the packet of high school instructional materials on 2627
personal financial responsibility developed by the department of 2628
education under section 3301.0726 of the Revised Code. 2629

(b) Programs to "train the trainer" to successfully train the 2630
instructors in public schools in Ohio to teach the curriculum. 2631

(c) A plan for determining the cost of implementing the 2632
curriculum in public schools in Ohio; 2633

(d) A plan for testing on the curriculum and obtaining and 2634
analyzing the results to determine the effectiveness of the 2635
curriculum; 2636

(e) A plan to direct the board of education of a city, 2637
exempted village, or joint vocational school district, the 2638
governing board of an educational service center, the board of a 2639
cooperative education school district established pursuant to 2640
section 3311.521 of the Revised Code, or a nonpublic school to 2641
develop an examination to determine a student's understanding of 2642
curriculum and to establish criteria for exempting students from 2643
the curriculum requirement based on the student's scores on this 2644
examination. 2645

(6) The board may receive grants from the department of 2646
commerce from the consumers finance fees collected by the 2647
department for the implementation of this section. 2648

(B) The board may assign and delegate the execution of its 2649
duties to smaller groups of its own members, which shall include 2650
committees specifically chartered to address all of the following 2651
issues: 2652

(1) The financial literacy of children ages five to eighteen; 2653

(2) The needs of persons, ages eighteen to twenty-five, in 2654

<u>the context of the objectives enumerated in division (A) of this</u>	2655
<u>section;</u>	2656
<u>(3) The needs of persons, classified as needy, based on a</u>	2657
<u>household adjusted gross income equal to less than two hundred per</u>	2658
<u>cent of the poverty level, as determined by the Ohio office of</u>	2659
<u>budget and management, or the earned income amount described in</u>	2660
<u>section thirty-two of the Internal Revenue Code of 1986, taking</u>	2661
<u>into account the size of the household, in the context of the</u>	2662
<u>objectives enumerated in division (A) of this section;</u>	2663
<u>(4) The needs of persons, previously convicted of one or more</u>	2664
<u>felonies, in the context of the objectives enumerated in division</u>	2665
<u>(A) of this section;</u>	2666
<u>(5) The needs of persons, characterized as vulnerable by</u>	2667
<u>reason of advanced age, disability, minority, or other demographic</u>	2668
<u>consideration, in the context of the objectives enumerated in</u>	2669
<u>division (A) of this section;</u>	2670
<u>(6) Any other group or issue identified by the board as</u>	2671
<u>worthy of particular attention.</u>	2672
<u>(C) The department of financial institutions in the</u>	2673
<u>department of commerce shall create a pilot financial literacy and</u>	2674
<u>counseling program funded through the consumer finance fund</u>	2675
<u>created under section 3121.21 of the Revised Code, to be operated</u>	2676
<u>in the five counties with the highest mortgage foreclosure rates,</u>	2677
<u>completion of which shall be required for any consumer seeking a</u>	2678
<u>mortgage loan with origination fees greater than five per cent.</u>	2679
<u>Before a mortgage broker permits a consumer to commit to such a</u>	2680
<u>loan, the broker shall notify the consumer that the loan may have</u>	2681
<u>attributes that are predatory. No person who offers education,</u>	2682
<u>advice, or counseling through the financial literacy and</u>	2683
<u>counseling program shall be held liable for any damages incurred</u>	2684
<u>from actions taken based on the education, advice, or counseling</u>	2685

given.

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

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

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

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(D) The superintendent shall require every title insurance
agent or agency and any subcontractors to maintain an errors and
omissions policy, in any amount exceeding minimum limits

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established by the superintendent, that includes but is not 2717
limited to coverage for the agent's or agency's delegation of any 2718
agent or agency function. 2719

Sec. 3953.30. (A) As used in this section: 2720

(1) "Residential mortgage loan" means an obligation to pay a 2721
sum of money evidenced by a note and secured by a lien upon real 2722
property located within this state containing two or fewer 2723
residential units or on which two or fewer residential units are 2724
to be constructed and includes such an obligation on a residential 2725
condominium or cooperative unit. 2726

(2) "Residential mortgage lender" means any person, 2727
including, but not limited to, banks, savings and loan 2728
associations, mortgage brokers, credit unions, or savings banks, 2729
that lends money or extends or grants credit and obtains a 2730
residential mortgage to assure payment of the debt. 2731

(B) A title insurance agent issuing a lender's title 2732
insurance policy in conjunction with a residential mortgage loan 2733
made simultaneously with the purchase of all or part of the real 2734
property securing the loan, where no owner's title insurance 2735
policy has been requested, shall give written notice, on a form 2736
prescribed or approved by the superintendent of insurance, to the 2737
mortgagor at the time the commitment is prepared. The notice shall 2738
explain that a lender's title insurance policy is to be issued 2739
protecting the residential mortgage lender, and that the policy 2740
does not provide title insurance protection to the mortgagor as 2741
the owner of the property being purchased. The notice shall 2742
explain what an owner's title insurance policy insures against and 2743
what possible exposures exist for the mortgagor that could be 2744
insured against through the purchase of an owner's title insurance 2745
policy. The notice shall state that the mortgagor may obtain an 2746
owner's title insurance policy protecting the mortgagor as the 2747

owner of the property, either at a specified cost or at an 2748
approximate cost if the proposed coverages or amount of insurance 2749
is not then known. The title insurance agent shall maintain a copy 2750
of the notice, signed by the mortgagor, in the relevant 2751
underwriting file for at least ten years after the effective date 2752
of the lender's title insurance policy. 2753

Sec. 3953.32. (A) At the time an order is placed with a title 2754
insurance company for issuance of a title insurance policy, the 2755
title insurance company or the title insurance agent shall offer 2756
closing or settlement protection to the lender, borrower, and 2757
seller of the property, and to any applicant for title insurance. 2758

(B) The closing or settlement protection offered pursuant to 2759
this section shall indemnify any lender, borrower, seller, and 2760
applicant that has requested the protection, both individually and 2761
collectively, against the loss of settlement funds resulting from 2762
any of the following acts of the title insurance company's named 2763
title insurance agent or anyone acting on the agent's behalf: 2764

(1) Theft, misappropriation, fraud, or any other failure to 2765
properly disburse settlement, closing, or escrow funds; 2766

(2) Failure to comply with any applicable written closing 2767
instructions, when agreed to by the title insurance agent. 2768

(C) The issuance of closing or settlement protection by a 2769
title insurance company pursuant to division (A) of this section 2770
is part of the business of title insurance for purposes of Chapter 2771
3953. of the Revised Code. 2772

(D) Except as provided in division (A) of this section, a 2773
title insurance company shall not offer or issue any coverage 2774
purporting to indemnify against a person's improper acts or 2775
omissions in connection with escrow, settlement, or closing 2776
services. 2777

(E) The superintendent of insurance may adopt rules in 2778
accordance with Chapter 119. of the Revised Code as the 2779
superintendent considers necessary to carry out the purposes of 2780
this section, including, but not limited to, rules that detail the 2781
specific language that must be included in the written document 2782
offering closing or settlement protection as provided for in 2783
division (A) of this section. 2784

Sec. 3953.33. (A) Every title insurance agent or agency that 2785
handles escrow, settlement, closing, or security deposit accounts 2786
shall have an annual independent review made of its escrow, 2787
settlement, closing and security deposit accounts on a 2788
calendar-year basis within ninety days after the close of the 2789
previous fiscal year. The title insurance agent or agency shall 2790
provide proof of the annual review to each title insurance company 2791
which it represents. The superintendent of insurance shall 2792
promulgate rules under Chapter 119. of the Revised Code setting 2793
forth the minimum threshold level at which a review is required, 2794
the standards of the review, the minimum qualifications of the 2795
independent party conducting the review, and the form of the 2796
report that is required. The superintendent may also require title 2797
insurance agents or agencies to provide a copy of their annual 2798
review reports to the superintendent. The annual review required 2799
by this division does not apply to interest on lawyer's trust 2800
accounts established and maintained by an attorney pursuant to 2801
sections 4705.09 and 4705.10 of the Revised Code. 2802

(B) Title insurance agents and agencies shall allow the 2803
superintendent and each and every title insurer that they 2804
represent reasonable access to all of their escrow, settlement, 2805
closing, and security deposit accounts and any and all supporting 2806
account information in order to ascertain the safety and security 2807
of the funds held by the title insurance agent or agency. 2808

(C) Title insurance agents and agencies shall maintain 2809
sufficient records of their affairs, including their escrow 2810
operations and escrow trust accounts, so that the superintendent 2811
may adequately ensure that the title insurance agent or agency is 2812
in compliance of this chapter. Records kept pursuant to this 2813
section shall be kept for a period of not less than ten years 2814
following the transactions to which the records relate. The 2815
superintendent may prescribe the specific records and documents to 2816
be kept. 2817

Sec. 4735.05. (A) The Ohio real estate commission is a part 2818
of the department of commerce for administrative purposes. The 2819
director of commerce is ex officio the executive officer of the 2820
commission, or the director may designate any employee of the 2821
department as superintendent of real estate and professional 2822
licensing to act as executive officer of the commission. 2823

The commission and the real estate appraiser board created 2824
pursuant to section 4763.02 of the Revised Code shall each submit 2825
to the director a list of three persons whom the commission and 2826
the board consider qualified to be superintendent within sixty 2827
days after the office of superintendent becomes vacant. The 2828
director shall appoint a superintendent from the lists submitted 2829
by the commission and the board, and the superintendent shall 2830
serve at the pleasure of the director. 2831

(B) The superintendent, except as otherwise provided, shall 2832
do all of the following in regard to this chapter: 2833

(1) Administer this chapter; 2834

(2) Issue all orders necessary to implement this chapter; 2835

(3) Investigate complaints concerning the violation of this 2836
chapter or the conduct of any licensee; 2837

(4) Establish and maintain an investigation and audit section 2838

to investigate complaints and conduct inspections, audits, and 2839
other inquiries as in the judgment of the superintendent are 2840
appropriate to enforce this chapter. The investigators or auditors 2841
have the right to review and audit the business records of 2842
licensees and continuing education course providers during normal 2843
business hours. 2844

(5) Appoint a hearing examiner for any proceeding involving 2845
disciplinary action under section 3123.47 or 4735.18 of the 2846
Revised Code; 2847

(6) Administer the real estate recovery fund. 2848

(C) The superintendent may do all of the following: 2849

(1) In connection with investigations and audits under 2850
division (B) of this section, subpoena witnesses as provided in 2851
section 4735.04 of the Revised Code; 2852

(2) Apply to the appropriate court to enjoin any violation of 2853
this chapter. Upon a showing by the superintendent that any person 2854
has violated or is about to violate any provision of this chapter, 2855
the court shall grant an injunction, restraining order, or other 2856
appropriate order. 2857

(3) Upon the death of a licensed broker or the revocation or 2858
suspension of the broker's license, if there is no other licensed 2859
broker within the business entity of the broker, appoint upon 2860
application by any interested party, or, in the case of a deceased 2861
broker, subject to the approval by the appropriate probate court, 2862
recommend the appointment of, an ancillary trustee who is 2863
qualified as determined by the superintendent to conclude the 2864
business transactions of the deceased, revoked, or suspended 2865
broker; 2866

(4) In conjunction with the enforcement of this chapter, when 2867
the superintendent of real estate has reasonable cause to believe 2868

that an applicant or licensee has committed a criminal offense, 2869
the superintendent of real estate may request the superintendent 2870
of the bureau of criminal identification and investigation to 2871
conduct a criminal records check of the applicant or licensee. The 2872
superintendent of the bureau of criminal identification and 2873
investigation shall obtain information from the federal bureau of 2874
investigation as part of the criminal records check of the 2875
applicant or licensee. The superintendent of real estate may 2876
assess the applicant or licensee a fee equal to the fee assessed 2877
for the criminal records check. 2878

(D) All information that is obtained by investigators and 2879
auditors performing investigations or conducting inspections, 2880
audits, and other inquiries pursuant to division (B)(4) of this 2881
section, from licensees, complainants, or other persons, and all 2882
reports, documents, and other work products that arise from that 2883
information and that are prepared by the investigators, auditors, 2884
or other personnel of the department, shall be held in confidence 2885
by the superintendent, the investigators and auditors, and other 2886
personnel of the department. Notwithstanding division (D) of 2887
section 2317.023 of the Revised Code, all information obtained by 2888
investigators or auditors from an informal mediation meeting held 2889
pursuant to section 4735.051 of the Revised Code, including but 2890
not limited to the agreement to mediate and the accommodation 2891
agreement, shall be held in confidence by the superintendent, 2892
investigators, auditors, and other personnel of the department. 2893

(E) This section does not prevent the division of real estate 2894
and professional licensing from releasing information relating to 2895
licensees to the superintendent of financial institutions for 2896
purposes relating to the administration of sections 1322.01 to 2897
1322.12 of the Revised Code, to the superintendent of insurance 2898
for purposes relating to the administration of Chapter 3953. of 2899
the Revised Code, to the attorney general, or to local law 2900

enforcement agencies and local prosecutors. Information released 2901
by the division pursuant to this section remains confidential. 2902

Sec. 4763.03. (A) In addition to any other duties imposed on 2903
the real estate appraiser board under this chapter, the board 2904
shall: 2905

(1) Adopt rules, in accordance with Chapter 119. of the 2906
Revised Code, in furtherance of this chapter, including, but not 2907
limited to, all of the following: 2908

(a) Defining, with respect to state-certified general real 2909
estate appraisers, state-certified residential real estate 2910
appraisers, and state-licensed residential real estate appraisers, 2911
the type of educational experience, appraisal experience, and 2912
other equivalent experience that satisfy the requirements of this 2913
chapter. The rules shall require that all appraisal experience 2914
performed after January 1, 1996, meet the uniform standards of 2915
professional practice established by the appraisal foundation. 2916

(b) Establishing the examination specifications for 2917
state-certified general real estate appraisers, state-certified 2918
residential real estate appraisers, and state-licensed residential 2919
real estate appraisers; 2920

(c) Relating to disciplinary proceedings conducted in 2921
accordance with section 4763.11 of the Revised Code, including 2922
rules governing the reinstatement of certificates, registrations, 2923
and licenses that have been suspended pursuant to those 2924
proceedings; 2925

(d) Identifying any additional information to be included on 2926
the forms specified in division (C) of section 4763.12 of the 2927
Revised Code, provided that the rules shall not require any less 2928
information than is required in that division; 2929

(e) Establishing the fees set forth in section 4763.09 of the 2930

Revised Code;	2931
(f) Establishing the amount of the assessment required by	2932
division (A)(2) of section 4763.05 of the Revised Code. The board	2933
annually shall determine the amount due from each applicant for an	2934
initial certificate, registration, and license in an amount that	2935
will maintain the real estate appraiser recovery fund at the level	2936
specified in division (A) of section 4763.16 of the Revised Code.	2937
The board may, if the fund falls below that amount, require	2938
current certificate holders, registrants, and licensees to pay an	2939
additional assessment.	2940
(g) Defining, with respect to state-registered real estate	2941
appraiser assistants, the educational and experience requirements	2942
of division (C)(1)(d) of section 4763.05 of the Revised Code;	2943
(h) Establishing a real estate appraiser assistant program	2944
for the registration of real estate appraiser assistants.	2945
(2) Provide or procure appropriate examination questions and	2946
answers for the examinations required by division (D) of section	2947
4763.05 of the Revised Code, and establish the criteria for	2948
successful completion of those examinations;	2949
(3) Periodically review the standards for preparation and	2950
reporting of real estate appraisals provided in this chapter and	2951
adopt rules explaining and interpreting those standards;	2952
(4) Hear appeals, pursuant to Chapter 119. of the Revised	2953
Code, from decisions and orders the superintendent of real estate	2954
issues pursuant to this chapter;	2955
(5) Request the initiation by the superintendent of	2956
investigations of violations of this chapter or the rules adopted	2957
pursuant thereto, as the board determines appropriate;	2958
(6) Determine the appropriate disciplinary actions to be	2959
taken against certificate holders, registrants, and licensees	2960

under this chapter as provided in section 4763.11 of the Revised	2961
Code.	2962
(B) In addition to any other duties imposed on the	2963
superintendent of real estate under this chapter, the	2964
superintendent shall:	2965
(1) Prescribe the form and content of all applications	2966
required by this chapter;	2967
(2) Receive applications for certifications, registrations,	2968
and licenses and renewal thereof under this chapter and establish	2969
the procedures for processing, approving, and disapproving those	2970
applications;	2971
(3) Retain records and all application materials submitted to	2972
the superintendent;	2973
(4) Establish the time and place for conducting the	2974
examinations required by division (D) of section 4763.05 of the	2975
Revised Code;	2976
(5) Issue certificates, registrations, and licenses and	2977
maintain a register of the names and addresses of all persons	2978
issued a certificate, registration, or license under this chapter;	2979
(6) Perform any other functions and duties, including the	2980
employment of staff, necessary to administer this chapter;	2981
(7) Administer this chapter;	2982
(8) Issue all orders necessary to implement this chapter;	2983
(9) Investigate complaints, upon the superintendent's own	2984
motion or upon receipt of a complaint or upon a request of the	2985
board, concerning any violation of this chapter or the rules	2986
adopted pursuant thereto or the conduct of any person holding a	2987
certificate, registration, or license issued pursuant to this	2988
chapter;	2989

(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.

(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, 3020
complainants, or other persons, and all reports, documents, and 3021
other work products that arise from that information and that are 3022
prepared by the investigators, auditors, or other personnel of the 3023
department of commerce, shall be held in confidence by the 3024
superintendent, the investigators and auditors, and other 3025
personnel of the department. 3026

(E) This section does not prevent the division of real estate 3027
and professional licensing from releasing information relating to 3028
certificate holders, registrants, and licensees to the 3029
superintendent of financial institutions for purposes relating to 3030
the administration of sections 1322.01 to 1322.12 of the Revised 3031
Code, to the superintendent of insurance for purposes relating to 3032
the administration of Chapter 3953. of the Revised Code, to the 3033
attorney general, or to local law enforcement agencies and local 3034
prosecutors. Information released by the division pursuant to this 3035
section remains confidential. 3036

Sec. 4763.05. (A)(1)(a) A person shall make application for 3037
an initial state-certified general real estate appraiser 3038
certificate, an initial state-certified residential real estate 3039
appraiser certificate, an initial state-licensed residential real 3040
estate appraiser license, or an initial state-registered real 3041
estate appraiser assistant registration in writing to the 3042
superintendent of real estate on a form the superintendent 3043
prescribes. The application shall include the address of the 3044
applicant's principal place of business and all other addresses at 3045
which the applicant currently engages in the business of preparing 3046
real estate appraisals and the address of the applicant's current 3047
residence. The superintendent shall retain the applicant's current 3048
residence address in a separate record which shall not constitute 3049
a public record for purposes of section 149.03 of the Revised 3050

Code. The application shall indicate whether the applicant seeks 3051
certification as a general real estate appraiser or as a 3052
residential real estate appraiser, licensure as a residential real 3053
estate appraiser, or registration as a real estate appraiser 3054
assistant and be accompanied by the prescribed examination and 3055
certification, registration, or licensure fees set forth in 3056
section 4763.09 of the Revised Code. The application also shall 3057
include a fingerprint of the applicant; a pledge, signed by the 3058
applicant, that the applicant will comply with the standards set 3059
forth in this chapter; and a statement that the applicant 3060
understands the types of misconduct for which disciplinary 3061
proceedings may be initiated against the applicant pursuant to 3062
this chapter. 3063

(b) Upon the filing of an application and payment of any 3064
examination and certification, registration, or licensure fees, 3065
the superintendent of real estate shall request the superintendent 3066
of the bureau of criminal identification and investigation, or a 3067
vendor approved by the bureau, to conduct a criminal records check 3068
based on the applicant's fingerprints in accordance with division 3069
(A)(11) of section 109.572 of the Revised Code. Notwithstanding 3070
division (J) of section 121.08 of the Revised Code, the 3071
superintendent of real estate shall request that criminal record 3072
information from the federal bureau of investigation be obtained 3073
as part of the criminal records check. Any fee required under 3074
division (C)(3) of section 109.572 of the Revised Code shall be 3075
paid by the applicant. 3076

(2) For purposes of providing funding for the real estate 3077
appraiser recovery fund established by section 4763.16 of the 3078
Revised Code, the real estate appraiser board shall levy an 3079
assessment against each person issued an initial certificate, 3080
registration, or license and against current licensees, 3081
registrants, and certificate holders, as required by board rule. 3082

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

(a) If the applicant is seeking a state-certified general

real estate appraiser certificate, that the applicant has 3115
successfully completed at least one hundred sixty-five classroom 3116
hours of courses in subjects related to real estate appraisal, 3117
including at least one course devoted exclusively to federal, 3118
state, and municipal fair housing law, presented by a nationally 3119
recognized appraisal organization, an institution of higher 3120
education, a career school registered by the state board of career 3121
colleges and schools, a state or federal commission or agency, or 3122
any other organization that represents the interests of financial 3123
institutions or real estate brokers, appraisers, or agents and 3124
that provides appraisal education, plus fifteen classroom hours 3125
related to standards of professional practice and the provisions 3126
of this chapter; 3127

(b) If the applicant is seeking a state-certified residential 3128
real estate appraiser certificate, that the applicant has 3129
successfully completed at least one hundred five classroom hours 3130
of courses in subjects related to real estate appraisal, including 3131
at least one course devoted exclusively to federal, state, and 3132
municipal fair housing law, presented by a nationally recognized 3133
appraisal organization, an institution of higher education, a 3134
career school registered by the state board of career colleges and 3135
schools, or any other organization that represents the interests 3136
of financial institutions or real estate brokers, appraisers, or 3137
agents and that provides appraisal education, plus fifteen 3138
classroom hours related to standards of professional practice and 3139
the provisions of this chapter; 3140

(c) If the applicant is seeking a state-licensed residential 3141
real estate appraiser license, that the applicant has successfully 3142
completed at least seventy-five classroom hours of courses in 3143
subjects related to real estate appraisal, including at least one 3144
course devoted exclusively to federal, state, and municipal fair 3145
housing law, presented by a nationally recognized appraisal 3146

organization, an institution of higher education, a career school 3147
registered by the state board of career colleges and schools, a 3148
state or federal commission or agency, or any other organization 3149
that represents the interests of financial institutions or real 3150
estate brokers, appraisers, or agents and that provides appraisal 3151
education, plus fifteen classroom hours related to standards of 3152
professional practice and the provisions of this chapter; 3153

(d) If the applicant is seeking a state-registered real 3154
estate appraiser assistant registration, that the applicant has 3155
successfully completed at least seventy-five classroom hours of 3156
courses in subjects related to real estate appraisal, including at 3157
least one course devoted exclusively to federal, state, and 3158
municipal fair housing law, presented by a nationally recognized 3159
appraisal organization, an institution of higher education, a 3160
career school registered by the state board of career colleges and 3161
schools, or any other organization that represents the interests 3162
of financial institutions or real estate brokers, appraisers, or 3163
agents, and that provides appraisal education that included at 3164
least fifteen classroom hours of instruction related to standards 3165
of professional practice and the requirements of this chapter and 3166
the rules adopted under this chapter. 3167

(2) Each person who files an application for an initial 3168
certificate or license within one year of the date established by 3169
the board as the first date on which applications will be accepted 3170
under this section, which date shall be no later than September 1, 3171
1990, and who, at the time of filing that application, does not 3172
satisfy the educational requirements for the certification or 3173
licensure sought of either division (C)(1)(a) or (b) of this 3174
section is exempt from those educational requirements for the term 3175
of the initial certification or licensure. In applying for a 3176
renewal certificate or license pursuant to section 4763.06 of the 3177
Revised Code, a certificate holder or licensee who was exempted 3178

from the educational requirements of division (C)(1)(a) or (b) of 3179
this section when applying for the initial certificate or license 3180
shall present satisfactory evidence to the superintendent that the 3181
certificate holder or licensee has completed the educational 3182
requirements for the certification or licensure to be renewed of 3183
one of those divisions before the renewal certificate or license 3184
may be issued. 3185

(D) An applicant for an initial general real estate appraiser 3186
or residential real estate appraiser certificate or residential 3187
real estate appraiser license shall take and successfully complete 3188
a written examination in order to qualify for the certificate or 3189
license. The examination shall require the applicant to 3190
demonstrate all of the following: 3191

(1) Appropriate knowledge of technical terms commonly used in 3192
or related to real estate appraising, appraisal report writing, 3193
and the economic concepts applicable to real estate; 3194

(2) Understanding of the principles of land economics, real 3195
estate appraisal processes, and problems likely to be encountered 3196
in gathering, interpreting, and processing of data in carrying out 3197
appraisal disciplines; 3198

(3) Understanding of the standards for the development and 3199
communication of real estate appraisals as provided in this 3200
chapter and the rules adopted thereunder; 3201

(4) Knowledge of theories of depreciation, cost estimating, 3202
methods of capitalization, direct sales comparison, and the 3203
mathematics of real estate appraisal that are appropriate for the 3204
certification or licensure for which the applicant has applied; 3205

(5) Knowledge of other principles and procedures as 3206
appropriate for the certification or license; 3207

(6) Basic understanding of real estate law; 3208

(7) Understanding of the types of misconduct for which 3209
disciplinary proceedings may be initiated against a certificate 3210
holder and licensee. 3211

(E)(1) A nonresident, natural person of this state who has 3212
complied with this section may obtain a certificate, registration, 3213
or license. The board shall adopt rules relating to the 3214
certification, registration, and licensure of a nonresident 3215
applicant whose state of residence the board determines to have 3216
certification, registration, or licensure requirements that are 3217
substantially similar to those set forth in this chapter and the 3218
rules adopted thereunder. 3219

(2) The board shall recognize on a temporary basis a 3220
certification or license issued in another state and shall 3221
register on a temporary basis an appraiser who is certified or 3222
licensed in another state if all of the following apply: 3223

(a) The temporary registration is to perform an appraisal 3224
assignment that is part of a federally related transaction~~+~~. 3225

(b) The appraiser's business in this state is of a temporary 3226
nature~~+~~. 3227

(c) The appraiser registers with the board pursuant to this 3228
division. 3229

An appraiser who is certified or licensed in another state 3230
shall register with the board for temporary practice before 3231
performing an appraisal assignment in this state in connection 3232
with a federally related transaction. 3233

The board shall adopt rules relating to registration for the 3234
temporary recognition of certification and licensure of appraisers 3235
from another state. The registration for temporary recognition of 3236
certified or licensed appraisers from another state shall not 3237
authorize completion of more than one appraisal assignment in this 3238

state. The board shall not issue more than two registrations for 3239
temporary practice to any one applicant in any calendar year. 3240

(3) In addition to any other information required to be 3241
submitted with the nonresident applicant's or appraiser's 3242
application for a certificate, registration, license, or temporary 3243
recognition of a certificate or license, each nonresident 3244
applicant or appraiser shall submit a statement consenting to the 3245
service of process upon the nonresident applicant or appraiser by 3246
means of delivering that process to the secretary of state if, in 3247
an action against the applicant, certificate holder, registrant, 3248
or licensee arising from the applicant's, certificate holder's, 3249
registrant's, or licensee's activities as a certificate holder, 3250
registrant, or licensee, the plaintiff, in the exercise of due 3251
diligence, cannot effect personal service upon the applicant, 3252
certificate holder, registrant, or licensee. 3253

(F) The superintendent shall not issue a certificate, 3254
registration, or license to, or recognize on a temporary basis an 3255
appraiser from another state that is a corporation, partnership, 3256
or association. This prohibition shall not be construed to prevent 3257
a certificate holder or licensee from signing an appraisal report 3258
on behalf of a corporation, partnership, or association. 3259

(G) Every person licensed, registered, or certified under 3260
this chapter shall notify the superintendent, on a form provided 3261
by the superintendent, of a change in the address of the 3262
licensee's, registrant's, or certificate holder's principal place 3263
of business or residence within thirty days of the change. If a 3264
licensee's, registrant's, or certificate holder's license, 3265
registration, or certificate is revoked or not renewed, the 3266
licensee, registrant, or certificate holder immediately shall 3267
return the annual and any renewal certificate, registration, or 3268
license to the superintendent. 3269

(H)(1) The superintendent shall not issue a certificate, 3270
registration, or license to any person, or recognize on a 3271
temporary basis an appraiser from another state, who does not meet 3272
applicable minimum criteria for state certification, registration, 3273
or licensure prescribed by federal law or rule. 3274

(2) The superintendent shall not issue a general real estate 3275
appraiser certificate, residential real estate appraiser 3276
certificate, residential real estate appraiser license, or real 3277
estate appraiser assistant registration to any person who has been 3278
convicted of or pleaded guilty to any criminal offense involving 3279
theft, receiving stolen property, embezzlement, forgery, fraud, 3280
passing bad checks, money laundering, or drug trafficking, or any 3281
criminal offense involving money or securities, including a 3282
violation of an existing or former law of this state, any other 3283
state, or the United States that substantially is equivalent to 3284
such an offense. However, if the applicant has pleaded guilty to 3285
or been convicted of such an offense, the superintendent shall not 3286
consider the offense if the applicant has proven to the 3287
superintendent, by a preponderance of the evidence, that the 3288
applicant's activities and employment record since the conviction 3289
show that the applicant is honest, truthful, and of good 3290
reputation, and there is no basis in fact for believing that the 3291
applicant will commit such an offense again. 3292

Sec. 4763.06. (A) A person licensed, registered, or certified 3293
under this chapter may obtain a renewal certificate, registration, 3294
or license by filing a renewal application with and paying the 3295
renewal fee set forth in section 4763.09 of the Revised Code and 3296
any amount assessed pursuant to division (A)(2) of section 4763.05 3297
of the Revised Code to the superintendent of real estate. The 3298
renewal application shall include a statement, signed by the 3299
certificate holder, registrant, or licensee, that the certificate 3300

holder, registrant, or licensee has not, during the immediately 3301
preceding twelve-month period, been convicted of or pleaded guilty 3302
to any criminal offense described in division (H)(2) of section 3303
4763.05 of the Revised Code. The certificate holder, registrant, 3304
or licensee shall file the renewal application at least thirty 3305
days, but no earlier than one hundred twenty days, prior to 3306
expiration of the certificate holder's, registrant's, or 3307
licensee's current certificate, registration, or license. A 3308
certificate holder or licensee who applies for a renewal 3309
certificate or license who, pursuant to division (C)(2) of section 3310
4763.05 of the Revised Code, was exempted from the educational 3311
requirements of division (C)(1) of that section during the term of 3312
the initial certificate or license, as a condition of renewal, 3313
also shall present satisfactory evidence of having completed the 3314
appropriate educational requirements of either division (C)(1)(a) 3315
or (b) of that section since the effective date of the initial 3316
certificate or license. 3317

(B) A certificate holder, registrant, or licensee who fails 3318
to renew a certificate, registration, or license prior to its 3319
expiration is ineligible to obtain a renewal certificate, 3320
registration, or license and shall comply with section 4763.05 of 3321
the Revised Code in order to regain ~~his~~ certification or 3322
licensure, except that a certificate holder, registrant, or 3323
licensee may, within three months after the expiration of the 3324
certificate holder's, registrant's, or licensee's certificate, 3325
registration, or license, renew the certificate, registration, or 3326
license without having to comply with section 4763.05 of the 3327
Revised Code by payment of all fees for renewal and payment of the 3328
late filing fee set forth in section 4763.09 of the Revised Code. 3329
A certificate holder, registrant, or licensee who applies for late 3330
renewal of the certificate holder's, registrant's, or licensee's 3331
certificate, registration, or license may engage in all activities 3332
permitted by the certification, registration, or license being 3333

renewed for the three-month period following the certificate's, 3334
registration's, or license's normal expiration date. 3335

Sec. 4763.12. (A) A person licensed or certified under this 3336
chapter may be retained or employed to act as a disinterested 3337
third party in rendering an unbiased valuation or analysis of real 3338
estate or to provide specialized services to facilitate the client 3339
or employer's objectives. An appraisal or appraisal report 3340
rendered by a certificate holder or licensee shall comply with 3341
this chapter. A certified appraisal or certified appraisal report 3342
represents to the public that it satisfies the standards set forth 3343
in this chapter. 3344

(B) No certificate holder or licensee shall accept a fee for 3345
an appraisal assignment that is contingent, in whole or in part, 3346
upon the reporting of a predetermined estimate, analysis, or 3347
opinion or upon the opinion, conclusion, or valuation reached, or 3348
upon consequences resulting from the appraisal assignment. A 3349
certificate holder or licensee who enters into an agreement to 3350
provide specialized services may charge a fixed fee or a fee that 3351
is contingent upon the results achieved by the specialized 3352
services, provided that this fact is clearly stated in each oral 3353
report rendered pursuant to the agreement, and the existence of 3354
the contingent fee arrangement is clearly stated in a prominent 3355
place on each written report and in each letter of transmittal and 3356
certification statement made by the certificate holder or licensee 3357
within that report. 3358

(C) Every written report rendered by a certificate holder or 3359
licensee in conjunction with an appraisal assignment or 3360
specialized service performed shall include the following 3361
information: 3362

(1) The name of the certificate holder or licensee; 3363

(2) The class of certification or licensure held by and the 3364

certification or licensure number of the certificate holder or licensee;	3365 3366
(3) Whether the appraisal or specialized service is performed within the scope of the certificate holder's or licensee's certification or licensure;	3367 3368 3369
(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;	3370 3371 3372 3373
(5) The signature of the person preparing and reporting the appraisal or specialized service.	3374 3375
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> .	3376 3377 3378 3379 3380 3381
(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.	3382 3383 3384 3385 3386 3387
<u>(E) No person shall knowingly 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 banker, or mortgage broker shall not be prohibited from asking the appraiser to consider additional appropriate property information, to provide further detail, substantiation, or explanation for the appraiser's value conclusion, or to correct errors in the</u>	3388 3389 3390 3391 3392 3393 3394 3395

appraisal report. 3396

(F) A copy of every written report rendered by a certificate 3397
holder or licensee pursuant to division (C) of this section, when 3398
resulting from an application for a mortgage loan, shall be 3399
provided to the person applying for the mortgage, and shall be 3400
accompanied by a copy of the current appraisal of real property as 3401
done by the auditor of the country wherein the property is 3402
located. 3403

Sec. 4763.13. (A) In engaging in appraisal activities, a 3404
person certified, registered, or licensed under this chapter shall 3405
comply with the applicable standards prescribed by the board of 3406
governors of the federal reserve system, the federal deposit 3407
insurance corporation, the comptroller of the currency, the office 3408
of thrift supervision, the national credit union administration, 3409
and the resolution trust corporation in connection with federally 3410
related transactions under the jurisdiction of the applicable 3411
agency or instrumentality. A certificate holder, registrant, and 3412
licensee also shall comply with the uniform standards of 3413
professional appraisal practice, as adopted by the appraisal 3414
standards board of the appraisal foundation and such other 3415
standards adopted by the real estate appraiser board, to the 3416
extent that those standards do not conflict with applicable 3417
federal standards in connection with a particular federally 3418
related transaction. 3419

(B) The terms "state-licensed residential real estate 3420
appraiser," "state-certified residential real estate appraiser," 3421
"state-certified general real estate appraiser," and 3422
"state-registered real estate appraiser assistant" shall be used 3423
to refer only to those persons who have been issued the applicable 3424
certificate, registration, or license or renewal certificate, 3425
registration, or license pursuant to this chapter. None of these 3426

terms shall be used following or in connection with the name or
signature of a partnership, corporation, or association or in a
manner that could be interpreted as referring to a person other
than the person to whom the certificate, registration, or license
has been issued. No person shall fail to comply with this
division.

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

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

(E) Nothing in this chapter shall preclude a partnership,
corporation, or association which employs or retains the services
of a certificate holder or licensee to advertise that the
partnership, corporation, or association offers state-certified or

state-licensed appraisals through a certificate holder or licensee 3459
if the advertisement clearly states such fact in accordance with 3460
guidelines for such advertisements established by rule of the real 3461
estate appraiser board. 3462

(F) ~~Nothing~~ Except as otherwise provided in section 4763.19 3463
of the Revised Code, nothing in this chapter shall preclude a 3464
person who is not licensed or certified under this chapter from 3465
appraising real estate for compensation. 3466

Sec. 4763.19. (A) Subject to division (B) of this section, no 3467
person shall perform a real estate appraisal for a mortgage loan 3468
if the person is not licensed or certified under this chapter to 3469
do the appraisal. 3470

(B) Division (A) of this section does not apply to a lender 3471
using a market analysis or price opinion, an internal valuation 3472
analysis, or an automated valuation model or report based on an 3473
automated valuation model, and any person providing that report to 3474
the lender, in performing a valuation for purposes of a loan 3475
application, as long as the lender does both of the following: 3476

(1) Gives the consumer loan applicant a copy of any written 3477
market analysis or price opinion or valuation report based on an 3478
automated valuation model; 3479

(2) Includes a disclaimer on the consumer's copy specifying 3480
that the valuation used for purposes of the application was 3481
obtained from a market analysis or price opinion or automated 3482
valuation model report and not from a person licensed or certified 3483
under this chapter. 3484

Sec. 4763.99. (A) Whoever violates division (B) of section 3485
4763.12 or, division (B), (C), or (D) of section 4763.13, or 3486
section 4763.19 of the Revised Code is guilty of a misdemeanor of 3487
the first degree. 3488

(B) Whoever violates division (E) of section 4763.12 of the 3489
Revised Code is guilty of a felony of the fifth degree. 3490

Section 2. That existing sections 109.572, 1321.57, 1322.02, 3491
1322.03, 1322.031, 1322.04, 1322.041, 1322.051, 1322.06, 1322.061, 3492
1322.062, 1322.07, 1322.10, 1322.11, 1322.99, 1349.25, 1349.27, 3493
1349.31, 3953.23, 4735.05, 4763.03, 4763.05, 4763.06, 4763.12, 3494
4763.13, and 4763.99 of the Revised Code are hereby repealed. 3495

Section 3. Sections 4763.13 and 4763.19 of the Revised Code, 3496
as amended or enacted by this act, shall take effect six months 3497
after the effective date of this act. 3498

Section 4. Section 109.572 of the Revised Code is presented 3499
in this act as a composite of the section as amended by both Am. 3500
Sub. H.B. 11 and Am. Sub. H.B. 117 of the 125th General Assembly 3501
and Am. Sub. H.B. 68 of the 126th General Assembly. The General 3502
Assembly, applying the principle stated in division (B) of section 3503
1.52 of the Revised Code that amendments are to be harmonized if 3504
reasonably capable of simultaneous operation, finds that the 3505
composite is the resulting version of the section in effect prior 3506
to the effective date of the section as presented in this act. 3507