

**As Pending in the House Housing and Urban Revitalization  
Committee**

**128th General Assembly  
Regular Session  
2009-2010**

**Sub. H. B. No. 3**

**Representatives Foley, Driehaus**

**Cosponsors: Representatives Heard, Skindell, Stewart, Newcomb, Yuko,  
Hagan, Harris, Williams, B., Williams, S., Yates, Luckie, Patten, Slesnick,  
Ujvagi, Letson, Harwood, Boyd, Weddington, Winburn, Pryor, Murray,  
Mallory, Domenick, DeBose**

—

**A B I L L**

To amend sections 109.572 and 1321.52 and to enact 1  
sections 1323.01 to 1323.11, 1323.20 to 1323.36, 2  
1323.361, 1323.37, 1323.99, 2303.33, 2308.01, 3  
2308.02, 2308.03, and 2308.04 of the Revised Code 4  
to declare a six-month moratorium on mortgage 5  
foreclosures, to provide courts authority to 6  
modify mortgage payments on foreclosures of 7  
subprime mortgages, to require registration of 8  
residential mortgage servicers, to regulate 9  
residential mortgage servicers, to adopt 10  
procedures and requirements related to residential 11  
foreclosure actions, to adopt civil and criminal 12  
penalties for violations of the bill's provisions, 13  
to terminate provisions of this act six months 14  
after its effective date by repealing section 15  
2308.03 of the Revised Code on that date, to 16  
terminate certain provisions of this act three 17  
years after its effective date by repealing 18  
section 2308.04 of the Revised Code on that date, 19

and to declare an emergency. 20

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

**Section 1.** That sections 109.572 and 1321.52 be amended and 21  
sections 1323.01, 1323.02, 1323.04, 1323.05, 1323.06, 1323.07, 22  
1323.08, 1323.09, 1323.10, 1323.11, 1323.20, 1323.21, 1323.22, 23  
1323.23, 1323.24, 1323.25, 1323.26, 1323.27, 1323.28, 1323.29, 24  
1323.30, 1323.31, 1323.32, 1323.33, 1323.34, 1323.35, 1323.36, 25  
1323.361, 1323.37, 1323.99, 2303.33, 2308.01, 2308.02, 2308.03, 26  
and 2308.04 of the Revised Code be enacted to read as follows: 27

**Sec. 109.572.** (A)(1) Upon receipt of a request pursuant to 28  
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 29  
a completed form prescribed pursuant to division (C)(1) of this 30  
section, and a set of fingerprint impressions obtained in the 31  
manner described in division (C)(2) of this section, the 32  
superintendent of the bureau of criminal identification and 33  
investigation shall conduct a criminal records check in the manner 34  
described in division (B) of this section to determine whether any 35  
information exists that indicates that the person who is the 36  
subject of the request previously has been convicted of or pleaded 37  
guilty to any of the following: 38

(a) A violation of section 2903.01, 2903.02, 2903.03, 39  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 40  
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 41  
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 42  
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 43  
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 44  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 45  
2925.06, or 3716.11 of the Revised Code, felonious sexual 46  
penetration in violation of former section 2907.12 of the Revised 47  
Code, a violation of section 2905.04 of the Revised Code as it 48

existed prior to July 1, 1996, a violation of section 2919.23 of 49  
the Revised Code that would have been a violation of section 50  
2905.04 of the Revised Code as it existed prior to July 1, 1996, 51  
had the violation been committed prior to that date, or a 52  
violation of section 2925.11 of the Revised Code that is not a 53  
minor drug possession offense; 54

(b) A violation of an existing or former law of this state, 55  
any other state, or the United States that is substantially 56  
equivalent to any of the offenses listed in division (A)(1)(a) of 57  
this section. 58

(2) On receipt of a request pursuant to section 5123.081 of 59  
the Revised Code with respect to an applicant for employment in 60  
any position with the department of mental retardation and 61  
developmental disabilities, pursuant to section 5126.28 of the 62  
Revised Code with respect to an applicant for employment in any 63  
position with a county board of mental retardation and 64  
developmental disabilities, or pursuant to section 5126.281 of the 65  
Revised Code with respect to an applicant for employment in a 66  
direct services position with an entity contracting with a county 67  
board for employment, a completed form prescribed pursuant to 68  
division (C)(1) of this section, and a set of fingerprint 69  
impressions obtained in the manner described in division (C)(2) of 70  
this section, the superintendent of the bureau of criminal 71  
identification and investigation shall conduct a criminal records 72  
check. The superintendent shall conduct the criminal records check 73  
in the manner described in division (B) of this section to 74  
determine whether any information exists that indicates that the 75  
person who is the subject of the request has been convicted of or 76  
pleaded guilty to any of the following: 77

(a) A violation of section 2903.01, 2903.02, 2903.03, 78  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 79  
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 80

2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 81  
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 82  
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 83  
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 84  
2925.03, or 3716.11 of the Revised Code; 85

(b) An existing or former municipal ordinance or law of this 86  
state, any other state, or the United States that is substantially 87  
equivalent to any of the offenses listed in division (A)(2)(a) of 88  
this section. 89

(3) On receipt of a request pursuant to section 173.27, 90  
173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a 91  
completed form prescribed pursuant to division (C)(1) of this 92  
section, and a set of fingerprint impressions obtained in the 93  
manner described in division (C)(2) of this section, the 94  
superintendent of the bureau of criminal identification and 95  
investigation shall conduct a criminal records check with respect 96  
to any person who has applied for employment in a position for 97  
which a criminal records check is required by those sections. The 98  
superintendent shall conduct the criminal records check in the 99  
manner described in division (B) of this section to determine 100  
whether any information exists that indicates that the person who 101  
is the subject of the request previously has been convicted of or 102  
pleaded guilty to any of the following: 103

(a) A violation of section 2903.01, 2903.02, 2903.03, 104  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 105  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 106  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 107  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 108  
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 109  
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 110  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 111  
2925.22, 2925.23, or 3716.11 of the Revised Code; 112

(b) An existing or former law of this state, any other state, 113  
or the United States that is substantially equivalent to any of 114  
the offenses listed in division (A)(3)(a) of this section. 115

(4) On receipt of a request pursuant to section 3701.881 of 116  
the Revised Code with respect to an applicant for employment with 117  
a home health agency as a person responsible for the care, 118  
custody, or control of a child, a completed form prescribed 119  
pursuant to division (C)(1) of this section, and a set of 120  
fingerprint impressions obtained in the manner described in 121  
division (C)(2) of this section, the superintendent of the bureau 122  
of criminal identification and investigation shall conduct a 123  
criminal records check. The superintendent shall conduct the 124  
criminal records check in the manner described in division (B) of 125  
this section to determine whether any information exists that 126  
indicates that the person who is the subject of the request 127  
previously has been convicted of or pleaded guilty to any of the 128  
following: 129

(a) A violation of section 2903.01, 2903.02, 2903.03, 130  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 131  
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 132  
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 133  
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 134  
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 135  
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 136  
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 137  
violation of section 2925.11 of the Revised Code that is not a 138  
minor drug possession offense; 139

(b) An existing or former law of this state, any other state, 140  
or the United States that is substantially equivalent to any of 141  
the offenses listed in division (A)(4)(a) of this section. 142

(5) On receipt of a request pursuant to section 5111.032, 143  
5111.033, or 5111.034 of the Revised Code, a completed form 144

prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.48, 2913.49, 2913.51, 2917.11, 2919.12, 2919.22, 2919.24, 2919.25, 2921.13, 2921.36, 2923.02, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

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

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

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

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

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

3319.31 of the Revised Code. 209

(8) On receipt of a request pursuant to section 2151.86 of 210  
the Revised Code, a completed form prescribed pursuant to division 211  
(C)(1) of this section, and a set of fingerprint impressions 212  
obtained in the manner described in division (C)(2) of this 213  
section, the superintendent of the bureau of criminal 214  
identification and investigation shall conduct a criminal records 215  
check in the manner described in division (B) of this section to 216  
determine whether any information exists that indicates that the 217  
person who is the subject of the request previously has been 218  
convicted of or pleaded guilty to any of the following: 219

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 220  
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 221  
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 222  
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 223  
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 224  
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 225  
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 226  
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 227  
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 228  
of the Revised Code, a violation of section 2905.04 of the Revised 229  
Code as it existed prior to July 1, 1996, a violation of section 230  
2919.23 of the Revised Code that would have been a violation of 231  
section 2905.04 of the Revised Code as it existed prior to July 1, 232  
1996, had the violation been committed prior to that date, a 233  
violation of section 2925.11 of the Revised Code that is not a 234  
minor drug possession offense, two or more OVI or OVUAC violations 235  
committed within the three years immediately preceding the 236  
submission of the application or petition that is the basis of the 237  
request, or felonious sexual penetration in violation of former 238  
section 2907.12 of the Revised Code; 239

(b) A violation of an existing or former law of this state, 240

any other state, or the United States that is substantially 241  
equivalent to any of the offenses listed in division (A)(8)(a) of 242  
this section. 243

(9) Upon receipt of a request pursuant to section 5104.012 or 244  
5104.013 of the Revised Code, a completed form prescribed pursuant 245  
to division (C)(1) of this section, and a set of fingerprint 246  
impressions obtained in the manner described in division (C)(2) of 247  
this section, the superintendent of the bureau of criminal 248  
identification and investigation shall conduct a criminal records 249  
check in the manner described in division (B) of this section to 250  
determine whether any information exists that indicates that the 251  
person who is the subject of the request has been convicted of or 252  
pleaded guilty to any of the following: 253

(a) A violation of section 2903.01, 2903.02, 2903.03, 254  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 255  
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 256  
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 257  
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 258  
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 259  
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 260  
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 261  
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 262  
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 263  
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 264  
3716.11 of the Revised Code, felonious sexual penetration in 265  
violation of former section 2907.12 of the Revised Code, a 266  
violation of section 2905.04 of the Revised Code as it existed 267  
prior to July 1, 1996, a violation of section 2919.23 of the 268  
Revised Code that would have been a violation of section 2905.04 269  
of the Revised Code as it existed prior to July 1, 1996, had the 270  
violation been committed prior to that date, a violation of 271  
section 2925.11 of the Revised Code that is not a minor drug 272

possession offense, a violation of section 2923.02 or 2923.03 of 273  
the Revised Code that relates to a crime specified in this 274  
division, or a second violation of section 4511.19 of the Revised 275  
Code within five years of the date of application for licensure or 276  
certification. 277

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

(10) Upon receipt of a request pursuant to section 5153.111 282  
of the Revised Code, a completed form prescribed pursuant to 283  
division (C)(1) of this section, and a set of fingerprint 284  
impressions obtained in the manner described in division (C)(2) of 285  
this section, the superintendent of the bureau of criminal 286  
identification and investigation shall conduct a criminal records 287  
check in the manner described in division (B) of this section to 288  
determine whether any information exists that indicates that the 289  
person who is the subject of the request previously has been 290  
convicted of or pleaded guilty to any of the following: 291

(a) A violation of section 2903.01, 2903.02, 2903.03, 292  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 293  
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 294  
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 295  
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 296  
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 297  
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 298  
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 299  
felonious sexual penetration in violation of former section 300  
2907.12 of the Revised Code, a violation of section 2905.04 of the 301  
Revised Code as it existed prior to July 1, 1996, a violation of 302  
section 2919.23 of the Revised Code that would have been a 303  
violation of section 2905.04 of the Revised Code as it existed 304

prior to July 1, 1996, had the violation been committed prior to 305  
that date, or a violation of section 2925.11 of the Revised Code 306  
that is not a minor drug possession offense; 307

(b) A violation of an existing or former law of this state, 308  
any other state, or the United States that is substantially 309  
equivalent to any of the offenses listed in division (A)(10)(a) of 310  
this section. 311

(11) On receipt of a request for a criminal records check 312  
from an individual pursuant to section 4749.03 or 4749.06 of the 313  
Revised Code, accompanied by a completed copy of the form 314  
prescribed in division (C)(1) of this section and a set of 315  
fingerprint impressions obtained in a manner described in division 316  
(C)(2) of this section, the superintendent of the bureau of 317  
criminal identification and investigation shall conduct a criminal 318  
records check in the manner described in division (B) of this 319  
section to determine whether any information exists indicating 320  
that the person who is the subject of the request has been 321  
convicted of or pleaded guilty to a felony in this state or in any 322  
other state. If the individual indicates that a firearm will be 323  
carried in the course of business, the superintendent shall 324  
require information from the federal bureau of investigation as 325  
described in division (B)(2) of this section. The superintendent 326  
shall report the findings of the criminal records check and any 327  
information the federal bureau of investigation provides to the 328  
director of public safety. 329

(12) On receipt of a request pursuant to section 1321.37, 330  
1322.03, 1322.031, 1323.23, or 4763.05 of the Revised Code, a 331  
completed form prescribed pursuant to division (C)(1) of this 332  
section, and a set of fingerprint impressions obtained in the 333  
manner described in division (C)(2) of this section, the 334  
superintendent of the bureau of criminal identification and 335  
investigation shall conduct a criminal records check with respect 336

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

(13) On receipt of a request for a criminal records check from the treasurer of state under section 113.041 of the Revised Code or from an individual under section 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by a completed form prescribed under 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 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 criminal

offense in this state or any other state. The superintendent shall 370  
send the results of a check requested under section 113.041 of the 371  
Revised Code to the treasurer of state and shall send the results 372  
of a check requested under any of the other listed sections to the 373  
licensing board specified by the individual in the request. 374  
375

(14) On receipt of a request pursuant to section 1121.23, 376  
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 377  
Code, a completed form prescribed pursuant to division (C)(1) of 378  
this section, and a set of fingerprint impressions obtained in the 379  
manner described in division (C)(2) of this section, the 380  
superintendent of the bureau of criminal identification and 381  
investigation shall conduct a criminal records check in the manner 382  
described in division (B) of this section to determine whether any 383  
information exists that indicates that the person who is the 384  
subject of the request previously has been convicted of or pleaded 385  
guilty to any criminal offense under any existing or former law of 386  
this state, any other state, or the United States. 387

(15) Not later than thirty days after the date the 388  
superintendent receives a request of a type described in division 389  
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), 390  
or (14) of this section, the completed form, and the fingerprint 391  
impressions, the superintendent shall send the person, board, or 392  
entity that made the request any information, other than 393  
information the dissemination of which is prohibited by federal 394  
law, the superintendent determines exists with respect to the 395  
person who is the subject of the request that indicates that the 396  
person previously has been convicted of or pleaded guilty to any 397  
offense listed or described in division (A)(1), (2), (3), (4), 398  
(5), (6), (7), (8), (9), (10), (11), (12), or (14) of this 399  
section, as appropriate. The superintendent shall send the person, 400  
board, or entity that made the request a copy of the list of 401

offenses specified in division (A)(1), (2), (3), (4), (5), (6), 402  
(7), (8), (9), (10), (11), (12), or (14) of this section, as 403  
appropriate. If the request was made under section 3701.881 of the 404  
Revised Code with regard to an applicant who may be both 405  
responsible for the care, custody, or control of a child and 406  
involved in providing direct care to an older adult, the 407  
superintendent shall provide a list of the offenses specified in 408  
divisions (A)(4) and (6) of this section. 409

Not later than thirty days after the superintendent receives 410  
a request for a criminal records check pursuant to section 113.041 411  
of the Revised Code, the completed form, and the fingerprint 412  
impressions, the superintendent shall send the treasurer of state 413  
any information, other than information the dissemination of which 414  
is prohibited by federal law, the superintendent determines exist 415  
with respect to the person who is the subject of the request that 416  
indicates that the person previously has been convicted of or 417  
pleaded guilty to any criminal offense in this state or any other 418  
state. 419

(B) The superintendent shall conduct any criminal records 420  
check requested under section 113.041, 121.08, 173.27, 173.394, 421  
1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1323.23, 422  
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 423  
3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 424  
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 425  
4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 426  
4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 427  
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 428  
4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 429  
5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 430  
5153.111 of the Revised Code as follows: 431

(1) The superintendent shall review or cause to be reviewed 432  
any relevant information gathered and compiled by the bureau under 433

division (A) of section 109.57 of the Revised Code that relates to 434  
the person who is the subject of the request, including, if the 435  
criminal records check was requested under section 113.041, 436  
121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 437  
1321.37, 1322.03, 1322.031, 1323.23, 1733.47, 1761.26, 2151.86, 438  
3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 439  
4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.032, 5111.033, 440  
5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 441  
Code, any relevant information contained in records that have been 442  
sealed under section 2953.32 of the Revised Code; 443

(2) If the request received by the superintendent asks for 444  
information from the federal bureau of investigation, the 445  
superintendent shall request from the federal bureau of 446  
investigation any information it has with respect to the person 447  
who is the subject of the request, including fingerprint-based 448  
checks of national crime information databases as described in 42 449  
U.S.C. 671 if the request is made pursuant to section 2151.86, 450  
5104.012, or 5104.013 of the Revised Code or if any other Revised 451  
Code section requires fingerprint-based checks of that nature, and 452  
shall review or cause to be reviewed any information the 453  
superintendent receives from that bureau. 454  
455

(3) The superintendent or the superintendent's designee may 456  
request criminal history records from other states or the federal 457  
government pursuant to the national crime prevention and privacy 458  
compact set forth in section 109.571 of the Revised Code. 459

(C)(1) The superintendent shall prescribe a form to obtain 460  
the information necessary to conduct a criminal records check from 461  
any person for whom a criminal records check is requested under 462  
section 113.041 of the Revised Code or required by section 121.08, 463  
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 464  
1322.031, 1323.23, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 465

3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 466  
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 467  
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 468  
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 469  
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 470  
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 471  
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 472  
5126.281, or 5153.111 of the Revised Code. The form that the 473  
superintendent prescribes pursuant to this division may be in a 474  
tangible format, in an electronic format, or in both tangible and 475  
electronic formats. 476

(2) The superintendent shall prescribe standard impression 477  
sheets to obtain the fingerprint impressions of any person for 478  
whom a criminal records check is requested under section 113.041 479  
of the Revised Code or required by section 121.08, 173.27, 480  
173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 481  
1323.23, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 482  
3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 483  
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 484  
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 485  
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 486  
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 487  
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 488  
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 489  
5126.281, or 5153.111 of the Revised Code. Any person for whom a 490  
records check is requested under or required by any of those 491  
sections shall obtain the fingerprint impressions at a county 492  
sheriff's office, municipal police department, or any other entity 493  
with the ability to make fingerprint impressions on the standard 494  
impression sheets prescribed by the superintendent. The office, 495  
department, or entity may charge the person a reasonable fee for 496  
making the impressions. The standard impression sheets the 497  
superintendent prescribes pursuant to this division may be in a 498

tangible format, in an electronic format, or in both tangible and 499  
electronic formats. 500

(3) Subject to division (D) of this section, the 501  
superintendent shall prescribe and charge a reasonable fee for 502  
providing a criminal records check requested under section 503  
113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 504  
1315.141, 1322.03, 1322.031, 1323.23, 1733.47, 1761.26, 2151.86, 505  
3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 506  
4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 507  
4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 508  
4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 509  
4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 510  
4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 511  
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 512  
5126.281, or 5153.111 of the Revised Code. The person making a 513  
criminal records request under any of those sections shall pay the 514  
fee prescribed pursuant to this division. A person making a 515  
request under section 3701.881 of the Revised Code for a criminal 516  
records check for an applicant who may be both responsible for the 517  
care, custody, or control of a child and involved in providing 518  
direct care to an older adult shall pay one fee for the request. 519  
In the case of a request under section 1121.23, 1155.03, 1163.05, 520  
1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the 521  
fee shall be paid in the manner specified in that section. 522

(4) The superintendent of the bureau of criminal 524  
identification and investigation may prescribe methods of 525  
forwarding fingerprint impressions and information necessary to 526  
conduct a criminal records check, which methods shall include, but 527  
not be limited to, an electronic method. 528

(D) A determination whether any information exists that 529  
indicates that a person previously has been convicted of or 530

pleaded guilty to any offense listed or described in division 531  
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 532  
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 533  
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), or (A)(14) of this 534  
section, or that indicates that a person previously has been 535  
convicted of or pleaded guilty to any criminal offense in this 536  
state or any other state regarding a criminal records check of a 537  
type described in division (A)(13) of this section, and that is 538  
made by the superintendent with respect to information considered 539  
in a criminal records check in accordance with this section is 540  
valid for the person who is the subject of the criminal records 541  
check for a period of one year from the date upon which the 542  
superintendent makes the determination. During the period in which 543  
the determination in regard to a person is valid, if another 544  
request under this section is made for a criminal records check 545  
for that person, the superintendent shall provide the information 546  
that is the basis for the superintendent's initial determination 547  
at a lower fee than the fee prescribed for the initial criminal 548  
records check. 549

(E) As used in this section: 550

(1) "Criminal records check" means any criminal records check 551  
conducted by the superintendent of the bureau of criminal 552  
identification and investigation in accordance with division (B) 553  
of this section. 554

(2) "Minor drug possession offense" has the same meaning as 555  
in section 2925.01 of the Revised Code. 556

(3) "Older adult" means a person age sixty or older. 557

(4) "OVI or OVUAC violation" means a violation of section 558  
4511.19 of the Revised Code or a violation of an existing or 559  
former law of this state, any other state, or the United States 560  
that is substantially equivalent to section 4511.19 of the Revised 561

Code. 562

**Sec. 1321.52.** (A)(1) No person, on that person's own behalf 563  
or on behalf of any other person, ~~shall do either of the following~~ 564  
without having first obtained a certificate of registration from 565  
the division of financial institutions+ 566

~~(a) Advertise, shall advertise,~~ solicit, or hold out that the 567  
person is engaged in the business of making loans secured by a 568  
mortgage on a borrower's real estate which is other than a first 569  
lien on the real estate+ 570

~~(b) Engage in the business of lending or collecting the~~ 571  
~~person's own or another person's money, credit, or choses in~~ 572  
~~action for such loans.~~ 573

(2) Each person issued a certificate of registration is 574  
subject to all the rules prescribed under sections 1321.51 to 575  
1321.60 of the Revised Code. 576

(B) ~~All loans (1) Except as otherwise provided in division~~ 577  
~~(B)(2) of this section, any loan made to persons a person~~ who at 578  
the time ~~are residents~~ of the loan is a resident of this state ~~are~~ 579  
is considered as made within this state and subject to the laws of 580  
this state, regardless of any statement in the contract or note to 581  
the contrary. 582

(2) If a loan is primarily secured by a lien on real property 583  
in another state and that loan is arranged by a mortgage loan 584  
originator licensed by another state, the borrower may designate 585  
the transaction be governed by the law where the real property is 586  
located if the other state has consumer protection laws covering 587  
the borrower that are applicable to the transaction. 588

(C) A registrant may make unsecured loans, loans secured by a 589  
mortgage on a borrower's real estate which is a first lien or 590  
other than a first lien on the real estate, loans secured by other 591

than real estate, and loans secured by any combination of 592  
mortgages and security interests, on terms and conditions provided 593  
by sections 1321.51 to 1321.60 of the Revised Code. 594

(D)(1) If a lender that is subject to sections 1321.51 to 595  
1321.60 of the Revised Code makes a loan in violation of division 596  
(A)(1) of this section, the lender has no right to collect, 597  
receive, or retain any interest or charges on that loan. 598

(2) If a registrant applies to the division for a renewal of 599  
the registrant's certificate after the date required by division 600  
(A)(4) of section 1321.53 of the Revised Code, but prior to the 601  
first day of August of that year, and the division approves the 602  
application, division (D)(1) of this section does not apply with 603  
respect to any loan made by the registrant while the registrant's 604  
certificate was expired. 605

**Sec. 1323.01.** (A) As used in this chapter: 606

(1) "Mortgage servicer" or "servicer" means a person who 607  
engages directly or indirectly, whether for compensation, gain for 608  
another, or on the person's own behalf, in the business of 609  
receiving scheduled periodic payments from a borrower pursuant to 610  
the terms of a residential mortgage loan, including amounts 611  
received for deposit in an escrow account, and applying those 612  
payments received toward principal, interest, and other 613  
obligations of the borrower including amounts to be paid from an 614  
escrow account. 615

"Mortgage servicer" includes a person who makes or holds a 616  
loan if that person also services the loan. 617

"Mortgage servicer" does not include any of the following: 618

(a) The federal deposit insurance corporation or the 619  
resolution trust corporation, in connection with assets acquired, 620  
assigned, sold, or transferred pursuant to the "Federal Deposit 621

Insurance Corporation Act," 64 Stat. 873 (1950), 12 U.S.C. 622  
1823(c), or as receiver or conservator of an insured depository 623  
institution; 624

(b) The government national mortgage association, the federal 625  
national mortgage association, the federal home loan mortgage 626  
corporation, the resolution trust corporation, or the federal 627  
deposit insurance corporation, in any case in which the 628  
assignment, sale, or transfer of the servicing of the mortgage 629  
loan is preceded by: 630

(i) Termination of the contract for servicing the loan for 631  
cause; 632

(ii) Commencement of proceedings for bankruptcy of the 633  
servicer; 634

(iii) Commencement of proceedings by the federal deposit 635  
insurance corporation or the resolution trust corporation for 636  
conservatorship or receivership of the servicer or an entity by 637  
which the servicer is owned or controlled. 638

(2) "Mortgage lender" means a person engaged in the business 639  
of making residential mortgage loans for compensation or gain. 640

(3) "Residential mortgage" and "residential mortgage loan" 641  
mean an obligation to pay a sum of money evidenced by a note and 642  
secured by a lien upon real property located within this state 643  
containing four or fewer residential units and includes such an 644  
obligation on a residential condominium or cooperative unit. 645

(4) "Employee" means an individual for whom a person pays a 646  
wage or salary, pays social security and unemployment taxes, 647  
provides workers' compensation coverage, and withholds local, 648  
state, and federal income taxes. "Employee" includes any 649  
individual who acts as an operations manager of a registered 650  
mortgage servicer, but for whom the servicer is prevented by law 651  
from making income tax withholdings. 652

(5) "Operations manager" means the employee or owner 653  
responsible for the everyday operations, compliance requirements, 654  
and management of a registrant or applicant. 655

(6) "Subprime loan" or "subprime mortgage" means a home loan 656  
originated between January 1, 2001, and January 1, 2009, in which 657  
the difference between the annual percentage rate for the loan and 658  
the average prime offer rate for a comparable transaction, as of 659  
the date the interest rate is set, is greater than one and 660  
one-half percentage points if the loan is a first mortgage loan or 661  
three and one-half percentage points if the loan is a secondary 662  
mortgage loan. For the purposes of this definition, "average prime 663  
offer rate" has the meaning as provided in 12 C.F.R. 226.35. 664

(B) Sections 1323.01 to 1323.11 of the Revised Code shall be 665  
known as the "special program to reduce foreclosures act." 666

(C) The deputy superintendent for consumer finance, when 667  
authorized by the superintendent of financial institutions of the 668  
department of commerce, may act in place of the superintendent 669  
with respect to any duty or authority of the superintendent under 670  
this chapter. 671

**Sec. 1323.02.** (A) At least sixty days prior to filing a 672  
complaint to initiate a foreclosure action that involves a 673  
residential mortgage loan on property occupied by an owner or a 674  
tenant of that owner, a mortgage servicer shall provide the 675  
borrower with a notice to inform the borrower of the amount due to 676  
the lender and the availability of resources to avoid foreclosure. 677  
This notice shall be on a form the superintendent of financial 678  
institutions in the department of commerce prescribes and shall 679  
include all of the following: 680

(1) An itemization of all past due amounts causing the loan 681  
to be in default; 682

(2) An itemization of any other charges that the borrower must pay in order to be current on loan payments; 683  
684

(3) A statement that the borrower may have options available other than foreclosure, and that the borrower may discuss available options with the mortgage lender, the mortgage servicer, or a counselor approved by the United States department of housing and urban development; 685  
686  
687  
688  
689

(4) The address, telephone number, and other contact information for the mortgage lender, the mortgage servicer, or an agent for either of them who is authorized to work with the borrower to avoid foreclosure; 690  
691  
692  
693

(5) The name, address, telephone number, and other contact information for one or more United States department of housing and urban development-approved counseling agencies operating to assist borrowers in Ohio to avoid foreclosure; 694  
695  
696  
697

(6) The address, telephone number, and other contact information for the consumer complaint sections of the division of financial institutions of the Ohio department of commerce and the Ohio attorney general; 698  
699  
700  
701

(7) The following information prominently displayed: 702

(8) Other information the director considers necessary and includes on the form. 703  
704

"YOU HAVE THE RIGHT TO REMAIN IN THIS PROPERTY DURING THE FORECLOSURE PROCEEDINGS AND AFTER THE SHERIFF'S SALE UNTIL A COURT CONFIRMS THE SALE. 705  
706  
707

ADDRESS OF PROPERTY: ....." 708

(B) The notice this section requires shall be mailed to the last known address of the borrower and shall be evidenced by a certificate of mailing from the United States postal service. 709  
710  
711

Sec. 1323.04. (A) Within three business days after mailing 712  
the notice section 1323.02 of the Revised Code requires, a 713  
mortgage servicer shall file with the administrative director of 714  
the Ohio supreme court the date the notice was mailed to the 715  
borrower and, unless prohibited by state or federal law, any 716  
additional information the administrative director requests. 717

(B) Within seven days after entering into a modification 718  
agreement, a mortgage servicer shall notify the administrative 719  
director of the nature and terms of an agreement with a borrower 720  
to do any of the following: 721

(1) Reduce or forego any fees or arrearages, including 722  
acceptance of a deed in lieu of foreclosure; 723

(2) Alter the terms of the residential mortgage loan 724  
agreement by a reduction in interest rate, lessening of monthly 725  
payment, increase in the term for repayment, deferment of interest 726  
or other payment, or alteration of a variable rate adjustment 727  
date; 728

(3) Refinance the loan under new terms. 729

(C) Any notice or filing this section requires shall be made 730  
in an electronic format as the administrative director prescribes, 731  
and contain the name and address of the borrower, the name and 732  
address of the mortgage servicer, and the name and address of the 733  
holder of the mortgage. 734

(D) The administrative director shall include all information 735  
received pursuant to this section in the information database 736  
developed and maintained pursuant to section 1323.07 of the 737  
Revised Code. This information shall be available for review by 738  
the state foreclosure prevention project as described in section 739  
1323.06 of the Revised Code. 740

Sec. 1323.05. (A) The superintendent of financial 741

institutions of the department of commerce shall adopt 742  
comprehensive minimum loan modification standards by rule. The 743  
standards shall be designed to keep a borrower whose principal 744  
residence is in Ohio, in the borrower's home when the anticipated 745  
recovery under a loan modification or workout plan is greater than 746  
the anticipated recovery through foreclosure, on a net present 747  
value basis. 748

(B) The loan modification standards adopted pursuant to this 749  
section shall include some combination of the following features: 750  
751

(1) An interest rate reduction, as needed, for a fixed term 752  
of at least five years; 753

(2) An extension of the amortization period for the loan 754  
term, to not more than forty years from the original date of the 755  
loan; 756

(3) Deferral of some portion of the principal amount of the 757  
unpaid principal balance until maturity of the loan; 758

(4) Reduction of principal; 759

(5) Compliance with a federally mandated loan modification 760  
program; 761

(6) Other factors the superintendent determines are 762  
appropriate, which may include efforts implemented in other states 763  
that have resulted in a reduction in foreclosures. 764

**Sec. 1323.06.** The director of commerce shall establish the 765  
"state foreclosure prevention project" to collect residential 766  
mortgage foreclosure information, track loss mitigation efforts, 767  
encourage viable loan modifications, and seek solutions to avoid 768  
foreclosures for residential mortgage loans. In developing the 769  
project, the director may include input from the United States 770

department of housing and urban development-approved housing 771  
counselors, community organizations, state agencies including the 772  
Ohio attorney general, mortgage lenders, mortgage servicers, and 773  
any other appropriate persons. 774

**Sec. 1323.07.** (A) The director of commerce shall design and 775  
develop, in consultation with the administrative director of the 776  
Ohio supreme court, the state foreclosure database to track 777  
residential mortgage foreclosure information and to promote the 778  
efforts of the state foreclosure prevention project. Not later 779  
than October 1, 2009, the administrative director of the Ohio 780  
supreme court shall implement the database. 781

(B) No person shall have access to the state foreclosure 782  
database except the following individuals or the individual's 783  
designated representative: the administrative director of the Ohio 784  
supreme court, the director of commerce, the superintendent of 785  
financial institutions, the Ohio attorney general, and the clerk 786  
of a court of common pleas for the purposes described in section 787  
2303.33 of the Revised Code. 788

(C) Any information provided for inclusion in the foreclosure 789  
prevention database is exclusively for the use and purposes of the 790  
state foreclosure prevention project. The database is not a public 791  
record subject to section 149.43 of the Revised Code and the 792  
information provided for and included in the database may not be 793  
disclosed except as this section provides. Any mortgage servicer 794  
shall have access only to the information submitted with respect 795  
to its own loans. 796

(D) Providing information as this chapter requires for 797  
inclusion in the prevention foreclosure database does not violate 798  
any state law pertaining to financial privacy. A mortgage servicer 799  
shall be held harmless for any alleged breach of privacy rights of 800

a borrower with respect to the information the mortgage servicer 801  
provides in accordance with this chapter. 802

**Sec. 1323.08.** (A) The director of commerce annually shall 803  
submit a report to the general assembly describing the operation 804  
of the state foreclosure prevention project until the funds 805  
specifically appropriated to operate the project are completely 806  
disbursed. The director shall present information in the report in 807  
aggregate form, and may include the number of borrowers helped, 808  
the effectiveness of the funds in preventing foreclosure, 809  
recommendations for further efforts needed to reduce foreclosures, 810  
and any other aggregated information the director determines is 811  
pertinent or that the general assembly requests. 812

(B) In preparing the report, the director shall review 814  
information provided in the foreclosure prevention database to 815  
determine all of the following: 816

(1) Whether the loss mitigation programs and efforts 817  
effectively address loan default issues; 818

(2) The most effective means for establishing successful 819  
foreclosure alternatives including loan modification programs; 820

(3) Which procedures best comport with a servicer's 821  
obligation to investors to lessen losses resulting from borrower 822  
defaults. 823

**Sec. 1323.09.** The superintendent of financial institutions in 824  
the department of commerce shall review the information in the 825  
mortgage foreclosure database to determine whether any mortgage 826  
servicer has failed to provide disclosures or information this 827  
chapter requires or is not acting in good faith to provide 828  
borrowers with an effective method to discuss payment options for 829  
past due amounts and alternatives to foreclosure. If the 830

superintendent determines that a mortgage servicer has violated 831  
any of these requirements, the superintendent may consider that 832  
conduct or failure when determining the character and general 833  
fitness of the mortgage servicer for its licensure or certificate 834  
of registration as a mortgage servicer under this chapter or 835  
Chapter 1321. of the Revised Code. 836

Sec. 1323.10. (A) There is hereby established in the state 837  
treasury the foreclosure prevention revolving trust fund, 838  
comprised of moneys collected or accruing to the trust fund, for 839  
the purpose of providing the following: 840

(1) Grants to counseling foreclosure prevention entities for 841  
the purpose of maintaining or expanding foreclosure prevention 842  
counseling and related services and activities to assist 843  
homeowners to prevent foreclosure; 844

(2) Grants to individuals or counseling entities for the 845  
purpose of providing emergency foreclosure prevention assistance 846  
loans; 847

(3) Loans and grants to nonprofit or local government 848  
entities to provide relocation assistance or acquire mortgage 849  
loans or properties from creditors in order to restructure the 850  
mortgage loans or restore the properties to productive use; 851

(4) Funding to establish, operate, and maintain the state 852  
foreclosure database established pursuant to section 1323.07 of 853  
the Revised Code; 854

(5) Funding for the expenses of the state foreclosure 855  
prevention project and the associated regulatory costs the 856  
superintendent of financial institutions of the department of 857  
commerce and the director of commerce incur in administering this 858  
chapter and sections 1321.51 to 1321.60 and 1322.01 to 1322.12 of 859  
the Revised Code. 860

(B) Each fiscal quarter the director of commerce shall 861  
distribute the amounts in the foreclosure prevention revolving 862  
trust fund as follows: ten per cent for administrative costs to 863  
the consumer finance fund in the state treasury, created under 864  
section 1321.21 of the Revised Code, up to five per cent to the 865  
office of the administrative director of the supreme court, and 866  
the balance to be divided between the department of development 867  
for deposit into the Ohio housing trust fund and boards of county 868  
commissioners. The amount awarded to boards of county 869  
commissioners shall be distributed on a pro rata basis of the 870  
funds submitted with respect to foreclosure filings in each county 871  
under section 1323.11 of the Revised Code. 872

(C) The director of development and boards of county 873  
commissioners shall establish rules governing the procedures to 874  
qualify counseling and foreclosure prevention entities, nonprofit 875  
entities, and individuals for loan assistance to receive moneys 876  
from the revolving trust fund to carry out the purposes of 877  
division (A) of this section. 878

(D) Any moneys collected under this section but not allocated 879  
by the end of the fiscal year shall be available for allocation in 880  
the subsequent fiscal year. 881

**Sec. 1323.11.** (A) In addition to any filing fee required by 882  
law, a creditor that files a complaint to initiate a foreclosure 883  
action involving a residential mortgage loan simultaneously shall 884  
transmit a certified check in the amount of one thousand five 885  
hundred dollars payable to the department of commerce for deposit 886  
into the trust fund established under section 1323.10 of the 887  
Revised Code. The creditor may not in any manner add the amount 888  
paid pursuant to this division to the amount the borrower owes the 889  
creditor or seek to recover this cost from the borrower. 890

(B) No court shall permit the filing of an action for a 891

mortgage foreclosure or grant a judgment of foreclosure to any 892  
creditor of a residential loan unless that creditor provides 893  
evidence to the court that the creditor has complied with this 894  
section. 895

(C) The director of commerce shall establish an accounting 896  
system to track the county that corresponds to each fee that is 897  
paid pursuant to this section. The accounting system shall be used 898  
to determine the share of the funds to be distributed to each 899  
county pursuant to section 1323.10 of the Revised Code. 900

(D) The fee this section requires shall not be charged with 901  
respect to a filing for a foreclosure action that is made for an 902  
unoccupied property. 903

**Sec. 1323.20.** (A) Sections 1323.20 to 1323.37 of the Revised 904  
Code shall be known as the "residential mortgage servicers 905  
registration act." 906

(B) Sections 1323.20 to 1323.37 of the Revised Code do not 907  
apply to any of the following: 908

(1) Any entity that is chartered and lawfully doing business 909  
as a bank, savings bank, trust company, savings and loan 910  
association, or credit union under the authority of any law of 911  
this state, another state, or the United States; 912

(2) Life, property, or casualty insurance companies licensed 913  
to do business in this state; 914

(3) Any attorney or law firm acting on behalf of any mortgage 915  
note holder or mortgage servicer when acting in connection with 916  
the practice of law in this state, except as otherwise provided in 917  
division (D) of this section. 918

(4) Any political subdivision, or any governmental or other 919  
public agency, corporation, or instrumentality in or of the United 920  
States or any state; 921

(5) An institution of higher education as defined in section 1713.01 of the Revised Code; 922  
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(6) A debt collector acting under the name of, and as agent for, a mortgage servicer registrant to collect a debt in default. 924  
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(C) Mortgage lenders registered under section 1321.52 of the Revised Code and mortgage brokers registered under section 1322.02 of the Revised Code are exempt from the registration requirements of section 1323.21 of the Revised Code but shall comply with divisions (C), (D), (F), and (G) of section 1323.33, and sections 1323.34, 1323.35, and 1323.36 of the Revised Code in connection with the servicing of residential mortgage loans. Any violation of these sections is an unfair and deceptive practice in violation of section 1345.02 of the Revised Code and may result in administrative action and penalties the superintendent of financial institutions of the department of commerce imposes pursuant to sections 1321.54 and 1322.10 of the Revised Code. 926  
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(D) Any attorney or law firm primarily engaged in debt collection shall comply with division (D) of section 1323.33 and section 1323.36 of the Revised Code when acting as a mortgage servicer, notwithstanding the general exemption from the provisions of sections 1323.20 to 1323.37 of the Revised Code. Any violation of division (D) of section 1323.33 or section 1323.36 of the Revised Code, in connection with any debt collection activity that is not considered the practice of law, is deemed to be an unfair and deceptive practice in violation of section 1345.02 of the Revised Code. 938  
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**Sec. 1323.21.** (A) No person, on that person's own behalf or on behalf of any other person, shall do either of the following unless that person is registered as a mortgage servicer and has a certificate of registration from the superintendent of financial institutions of the department of commerce: 948  
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(1) Engage in the business of collecting money, credit, or 953  
choses in action for residential mortgage loans or otherwise act 954  
as a mortgage servicer; 955

(2) Collect accelerated mortgage payments from a biweekly or 956  
other accelerated payment plan that the person operates, arranges, 957  
or offers to arrange in connection with a residential mortgage 958  
loan. 959

(B) Any person who acts in willful violation of division (A) 960  
of this section, after receiving written notice of the violation 961  
from the superintendent or a court, may not collect any amounts as 962  
interest or charges on that loan. Any amounts collected shall be 963  
credited as a principal reduction to the loan. 964

(C)(1) When a registration expires for any reason and the 965  
former registrant continues to service residential mortgage loans 966  
in violation of division (A) of this section, the superintendent 967  
may take administrative action, including action on any subsequent 968  
application for a certificate of registration. 969

(2) A servicer with an expired registration may not collect, 970  
charge, or retain any late fee, bad check charge except as 971  
incurred, charge related to default, cost to realize on its 972  
security interest, or prepayment penalty on any residential 973  
mortgage loan unless that servicer applies to the superintendent 974  
for a registration renewal and a certificate of registration prior 975  
to the first day of August of the year the registration expires 976  
and the superintendent approves that application. 977

(D) No person shall conduct the business of a mortgage 978  
servicer in association with any exempt business if the 979  
superintendent has ordered that exempt business, in writing, to 980  
desist from conduct that the superintendent found to be a mere 981  
conduit for the mortgage servicer and that the association of the 982  
servicer and the exempt business is intended to conceal an evasion 983

of sections 1323.20 to 1323.37 of the Revised Code or the rules 984  
adopted pursuant to those sections. Any determination made 985  
pursuant to this division shall be made in accordance with Chapter 986  
119. of the Revised Code. 987

Sec. 1323.22. (A) Any application for registration as a 988  
mortgage servicer shall be in writing, under oath, and in the form 989  
the superintendent of financial institutions of the department of 990  
commerce prescribes. It shall contain an undertaking by the 991  
applicant to abide by this chapter and any other information that 992  
the superintendent requires. Applicants that are foreign 993  
corporations shall obtain and maintain a license pursuant to 994  
Chapter 1703. of the Revised Code before seeking registration or 995  
registration renewal as a mortgage servicer. 996

(B) Upon an applicant's filing an application and paying a 997  
nonrefundable two hundred dollar investigation fee, a 998  
nonrefundable one thousand dollar annual registration fee, and any 999  
additional fee required by law, the superintendent shall 1000  
investigate the relevant facts. If the application requires 1001  
investigation outside this state, the applicant may be required to 1002  
advance sufficient funds to pay any of the actual expenses when it 1003  
appears that these expenses will exceed two hundred dollars. The 1004  
superintendent shall furnish an itemized statement of any expenses 1005  
the applicant is required to pay. The superintendent shall not 1006  
issue any certificate of registration unless all the required fees 1007  
have been paid. 1008

(C) An applicant shall designate an employee or owner who has 1009  
at least three years' experience in the mortgage, collections, 1010  
servicing, or lending field as the applicant's operations manager. 1011  
No operations manager shall be employed by any other mortgage 1012  
servicer while acting as an operations manager. Any operations 1013  
manager must be acceptable to the superintendent. 1014

(D) The superintendent may consider an application for registration as a mortgage servicer withdrawn if that application does not contain all of the information required under division (A) of this section and the applicant does not submit that information within ninety days after the superintendent requests the information in writing. 1015  
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(E) The superintendent of financial institutions shall deposit any licensing fee, charge, or fine received pursuant to sections 1323.20 to 1323.37 of the Revised Code into the consumer finance fund in the state treasury, created under section 1321.21 of the Revised Code, unless otherwise specified by law. 1021  
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**Sec. 1323.23.** (A) Any investigation the superintendent of financial institutions of the department of commerce undertakes with respect to an application for registration as a mortgage servicer shall include a civil records check and criminal records check at the time of the initial application and every five years thereafter, or upon a change of control of the registrant if the persons acquiring control have not had a criminal records check submitted to the superintendent within the past five years. Where the applicant is a business entity, the superintendent may require a criminal background check of those persons that the superintendent determines have the authority to direct and control the operations of the applicant. 1026  
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(B) When conducting a criminal background check, the superintendent shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check based on the applicant's fingerprints or if fingerprints are unreadable, based on the applicant's social security number. Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of financial institutions shall request that criminal record information from the federal 1038  
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bureau of investigation be obtained as part of the criminal 1046  
records check. 1047

(C) The applicant shall pay any fee required under division 1048  
(C)(3) of section 109.572 of the Revised Code. 1049

(D) The superintendent shall conduct the civil records checks 1050  
this section requires pursuant to procedures the superintendent 1051  
adopts by rule. 1052

**Sec. 1323.24.** (A) The superintendent of financial 1053  
institutions of the department of commerce shall issue a 1054  
certificate of registration as a mortgage servicer to an applicant 1055  
if the superintendent finds that the applicant's financial 1056  
responsibility, experience, character, and general fitness command 1057  
the confidence of the public and warrant the belief that the 1058  
business will be operated honestly and fairly in compliance with 1059  
the purposes of this chapter and the rules promulgated under it, 1060  
and that the applicant has the requisite bond or applicable net 1061  
worth as this chapter requires. 1062

(B) Upon finding an applicant does not meet the conditions 1063  
set forth in this chapter, the superintendent shall issue a notice 1064  
of intent to deny an application for registration or renewal. The 1065  
superintendent forthwith shall notify the applicant of the denial, 1066  
the grounds for the denial, and the applicant's opportunity to be 1067  
heard on the action in accordance with Chapter 119. of the Revised 1068  
Code. 1069

(C) Any certificate issued pursuant to this section shall 1070  
expire on the first day of July next after its issue, and on the 1071  
first day of July in each succeeding year unless renewed by filing 1072  
a renewal application and payment of an annual fee and any 1073  
additional fee required by law, on or before the last day of June 1074  
of each year. 1075

Sec. 1323.25. (A) To renew a registration as a mortgage servicer, a registrant shall timely file a renewal application on a form the superintendent of financial institutions of the department of commerce prescribes, along with any additional information that the superintendent requires. 1076  
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(B) As a condition of renewal, a registrant must provide proof that the designated operation manager meets the criteria for initial approval set forth in section 1323.23 of the Revised Code and that the mortgage servicer meets the minimum standards for the issuance of the certificate of registration under sections 1323.22 to 1323.24 of the Revised Code. 1081  
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(C) The superintendent shall not grant any renewal if the applicant's certificate of registration is subject to an order of suspension, revocation, or an unpaid and past due fine the superintendent has imposed. 1087  
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(D) If an application for renewal of a certificate of registration does not contain all the information this section requires, and if the registrant does not submit that information to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn. 1091  
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Sec. 1323.26. At any time there is a change of five per cent or more in the ownership of a registrant, the superintendent of financial institutions of the department of commerce may make any investigation necessary to determine whether any fact or condition presently exists that would have warranted the superintendent denying the original application had the fact or condition existed at the time of that application. If the superintendent finds such a fact or condition, the superintendent may revoke the registrant's registration and certificate pursuant to Chapter 119. 1097  
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of the Revised Code. 1106

Sec. 1323.27. (A) Each place of business to which borrowers 1107  
are regularly directed to remit payment shall display its own 1108  
certificate of registration. The superintendent of financial 1109  
institutions of the department of commerce may issue additional 1110  
certificates of registration to the same person for additional 1111  
places of business upon compliance with the requirements governing 1112  
the issuance of a single certificate. 1113

(B)(1) Any change in the place of business to a location 1114  
outside the original municipal corporation requires a new 1115  
certificate of registration. A registrant who makes such a change 1116  
of location shall submit a new application, pay the registration 1117  
fee and, if the superintendent requires, pay an investigation fee 1118  
of two hundred dollars. The registrant must have the new 1119  
certificate before operating in the new location. 1120

(2) A registrant who wishes to change its place of business 1121  
within the same municipal corporation shall give written notice of 1122  
the change in advance to the superintendent, who shall provide a 1123  
certificate for the new address without cost. 1124

(C) A registrant that changes its name shall give written 1125  
notice of the change to the superintendent prior to acting as a 1126  
mortgage servicer under the new name. The superintendent shall 1127  
provide a certificate in the new name without cost. 1128

(D) A registrant shall keep each certificate conspicuously 1129  
posted in each place of business. A certificate of registration is 1130  
not transferable or assignable. 1131

Sec. 1323.28. (A) Any person who acts as a mortgage servicer, 1132  
if not bonded pursuant to division (B) of this section, shall 1133  
maintain at all times both of the following: 1134

(1) A net worth of at least two hundred fifty thousand 1135  
dollars; 1136

(2) For each additional certificate of registration beyond 1137  
the first, assets of at least fifty thousand dollars either in use 1138  
or readily available for use in the conduct of the business. 1139

(B) Any person acting as a mortgage servicer by arranging 1140  
biweekly or other accelerated payment plans and collecting those 1141  
payments shall obtain and maintain in effect at all times a 1142  
corporate surety bond issued by a bonding company or insurance 1143  
company authorized to do business in this state. The servicer 1144  
shall file a copy of the bond with the superintendent of financial 1145  
institutions of the department of commerce. The bond shall meet 1146  
all of the following conditions: 1147

(1) Be in favor of the superintendent; 1148

(2) Have a base penal sum of two hundred fifty thousand 1149  
dollars for the first location and an additional penal sum of ten 1150  
thousand dollars for each additional location that requires a 1151  
separate certificate of registration; 1152

(3) Have a term that coincides with the term of registration; 1153  
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(4) Be for the exclusive benefit of any individual borrower 1155  
injured by any violation of sections 1323.20 to 1323.37 of the 1156  
Revised Code or the rules promulgated thereunder by a servicer, 1157  
its employees, or agent; 1158

(5) Have an aggregate liability of the corporate surety for 1159  
any and all breaches of the conditions of the bond shall not 1160  
exceed the penal sum of the bond. 1161

(C)(1) A mortgage servicer shall give notice to the 1162  
superintendent by certified mail of any action that is brought by 1163  
a borrower brings against the servicer alleging injury by a 1164

violation of sections 1323.20 to 1323.37 of the Revised Code and 1165  
of any judgment that is entered against the servicer by a borrower 1166  
injured by a violation of those sections. The notice shall provide 1167  
details sufficient to identify the action or judgment. The 1168  
servicer shall file the notice with the superintendent within ten 1169  
days after the commencement of the action or receipt of the notice 1170  
of entry of a judgment. 1171

(2) A corporate surety shall give notice of any payment to 1172  
the superintendent by certified mail within ten days after it pays 1173  
any claim or judgment, with details sufficient to identify the 1174  
person and the claim or judgment paid. 1175

(D) Whenever the penal sum of the corporate surety bond is 1176  
reduced by one or more recoveries or payments, a servicer shall 1177  
furnish a new or additional bond under this section, so that the 1178  
total or aggregate penal sum of the bond or bonds equals the sum 1179  
required by this section, or shall furnish an endorsement executed 1180  
by the corporate surety reinstating the bond to the required penal 1181  
sum set forth in division (B) of this section. 1182

(E) The liability of the corporate surety on the bond to the 1183  
superintendent and to any borrower injured by a violation of 1184  
sections 1323.20 to 1323.37 of the Revised Code is not affected in 1185  
any way by any misrepresentation, breach of warranty, or failure 1186  
to pay the premium, by any act or omission upon the part of the 1187  
servicer, by the insolvency or bankruptcy of the servicer, or by 1188  
the insolvency of the servicer's estate. The servicer shall 1189  
maintain in effect liability for any act or omission that occurs 1190  
during the term of the corporate surety bond for at least two 1191  
years after the date on which the corporate surety bond is 1192  
terminated or canceled. 1193

(F) Neither the servicer nor the corporate surety shall 1194  
cancel a corporate surety bond except upon notice to the 1195  
superintendent by certified mail, return receipt requested. A 1196

cancellation is not effective until thirty days after the 1197  
superintendent receives the notice. 1198

(G) No servicer shall fail to comply with this section. Any 1199  
servicer that fails to comply shall cease acting as a mortgage 1200  
servicer in this state until that servicer complies with this 1201  
section. 1202

**Sec. 1323.29.** (A) The superintendent of financial 1203  
institutions of the department of commerce may adopt, in 1204  
accordance with Chapter 119. of the Revised Code, rules to 1205  
administer and enforce this chapter and to carry out its purposes. 1206

(B)(1) After written notice to the registrant stating the 1207  
contemplated action, the grounds for the action, and the 1208  
registrant's opportunity to be heard in accordance with Chapter 1209  
119. of the Revised Code, the superintendent may revoke, suspend, 1210  
or refuse to renew any registration and certificate issued under 1211  
this chapter if the superintendent finds any of the following: 1212

(a) A violation of or failure to comply with any provision of 1213  
sections 1323.20 to 1323.37 of the Revised Code or the rules 1214  
adopted under those sections, under Chapter 1345. of the Revised 1215  
Code, federal debt collection laws, or any other law applicable to 1216  
the business conducted under the registrant's certificate of 1217  
registration; 1218

(b) The registrant has been convicted of or pleads guilty or 1219  
nolo contendere in a domestic, foreign, or military court to any 1220  
criminal felony offense or any criminal offense involving theft, 1221  
receiving stolen property, embezzlement, forgery, fraud, passing 1222  
bad checks, money laundering, breach of trust, dishonesty, or drug 1223  
trafficking, or any criminal offense involving money or 1224  
securities; 1225

(c) The registrant's certificate of registration, license, or 1226

comparable authority as a mortgage servicer has been revoked in 1227  
any other state. 1228

(2) The superintendent may impose a monetary fine in addition 1229  
to, or in lieu of, any revocation, suspension, or denial or in 1230  
settlement of matters subject to claims under division (B)(1)(a) 1231  
of this section. 1232

(3) Except as otherwise provided in section 1323.21 of the 1233  
Revised Code, the revocation, suspension, or refusal to renew a 1234  
registration does not impair the obligation of any pre-existing 1235  
lawful contract made under this chapter if a mortgage servicer 1236  
makes a good faith effort to promptly transfer its collection 1237  
rights to a registrant or person exempt from registration. A 1238  
servicer that does not make the requisite good faith effort is 1239  
subject to additional monetary fines and legal or administrative 1240  
action by the superintendent. Nothing in this section limits a 1241  
court's ability to impose a cease and desist order preventing any 1242  
further business or servicing activity. 1243

(C)(1) The superintendent may investigate alleged violations 1244  
of sections 1323.20 to 1323.37 of the Revised Code or the rules 1245  
adopted thereunder, or complaints concerning any such violation. 1246  
The superintendent may apply to the court of common pleas for an 1247  
order enjoining any violation. Upon a showing that a person has 1248  
committed or is about to commit a violation, the court shall grant 1249  
an injunction, restraining order, or other appropriate relief. 1250

(2) In conducting an investigation, the superintendent, by 1252  
subpoena, may compel witnesses to testify in relation to any 1253  
matter over which the superintendent has jurisdiction, and may 1254  
require the production or photocopying of any book, record, or 1255  
other document pertaining to such matter. If a person fails to 1256  
comply with the subpoena, or permit photocopying of any document 1257  
subpoenaed, a court of common pleas, upon the superintendent's 1258

application, shall compel obedience by attachment proceedings for 1259  
contempt or a refusal to testify. 1260

(D) If the superintendent determines that a person is engaged 1261  
in or may be engaged in activities that violate sections 1323.20 1262  
to 1323.37 of the Revised Code or the rules adopted thereunder, 1263  
the superintendent, after notice and a hearing conducted in 1264  
accordance with Chapter 119. of the Revised Code, may issue a 1265  
cease and desist order. 1266

(E)(1) The superintendent may impose a fine of not more than 1267  
one thousand dollars for each day a violation of this chapter or 1268  
the rules adopted under it is committed, repeated, or continued. 1269  
All fines collected pursuant to this section shall be paid to the 1270  
treasurer of state to the credit of the consumer finance fund 1271  
created in section 1321.21 of the Revised Code. In determining the 1272  
amount of a fine to be impose, the superintendent may consider all 1273  
of the following: 1274

(a) The seriousness of the violation; 1275

(b) The servicer's good faith efforts to prevent the 1276  
violation; 1277

(c) The servicer's history regarding violations and 1278  
compliance with the superintendent's orders; 1279

(d) The servicer's financial resources; 1280

(e) Any other matters the superintendent considers 1281  
appropriate in enforcing this chapter. 1282

(2) Monetary fines imposed under this section do not preclude 1283  
any criminal fine described in section 1323.99 of the Revised 1284  
Code. 1285

**Sec. 1323.30.** (A)(1) A mortgage servicer shall keep separate 1286  
records pertaining to each loan serviced and preserve those 1287  
records for so long as the servicer has responsibility for the 1288

loan. At any time responsibility for the loan is transferred to 1289  
another servicer, the servicer who is ceasing responsibility shall 1290  
transfer all original loan documents and records to the servicer 1291  
who is assuming responsibility for the loan. Any system of 1292  
electronic imaging of required records shall be approved by the 1293  
superintendent of financial institutions of the department of 1294  
commerce prior to its use but at no time shall such a system be a 1295  
substitute for maintaining original documents as this section 1296  
requires. 1297

(2) As often as necessary, the superintendent may make or 1298  
cause to be made an examination of records pertaining to loans 1299  
serviced for the purpose of determining whether the servicer is 1300  
complying with sections 1323.20 to 1323.37 of the Revised Code and 1301  
of verifying any registrant's annual report. 1302

(B)(1) The superintendent may require each servicer to file 1303  
each year a report under oath or affirmation, on forms the 1304  
superintendent supplies, concerning the business and operations 1305  
for the preceding calendar year. A servicer that operates two or 1306  
more registered offices or who operates registered offices with 1307  
one or more affiliated servicers, may file a composite report of 1308  
the group of registered offices in lieu of individual reports. 1309

(2) The reports provided under division (B)(1) of this 1310  
section are not public records and are not open to public 1311  
inspection. 1312

(C)(1) The following information is confidential: 1313

(a) Examination information, and any information leading to 1314  
or arising from an examination; 1315

(b) Investigation information, and any information arising 1316  
from or leading to an investigation. 1317

(2) The information described in this division is 1318

confidential for all purposes except when it is necessary for the 1319  
superintendent to take official action regarding the affairs of a 1320  
servicer or in connection with criminal or civil proceedings to be 1321  
initiated by a prosecuting attorney or the attorney general. This 1322  
information may be introduced into evidence or disclosed pursuant 1323  
to section 1181.25 of the Revised Code. 1324

(D) All application information is a public record as defined 1325  
in section 149.43 of the Revised Code, except social security 1326  
numbers, employer identification numbers, financial account 1327  
numbers, the identity of the institution where financial accounts 1328  
are maintained, personal financial information, fingerprint cards 1329  
and the information contained on such cards, and criminal 1330  
background information. 1331

(E) Nothing in this section prevents the superintendent from 1332  
releasing information relating to servicers or exchanging that 1333  
information with other financial institution regulatory 1334  
authorities. For this purpose, a "financial institution regulatory 1335  
authority" includes a regulator of a business activity in which a 1336  
servicer is engaged or has applied to engage, to the extent that 1337  
the regulator has jurisdiction over a servicer engaged in that 1338  
business activity. A servicer is engaged in a business activity, 1339  
and a regulator of that business activity has jurisdiction over 1340  
the servicer, whether the servicer conducts the activity directly 1341  
or a subsidiary or affiliate of the servicer conducts the 1342  
activity. 1343

(F) Nothing in this section prevents the superintendent of 1344  
financial institutions from releasing information relating to 1345  
mortgage servicers to the attorney general, to the superintendent 1346  
of real estate and professional licensing of the department of 1347  
commerce for purposes relating to the administration of Chapters 1348  
4735. and 4763. of the Revised Code, to the superintendent of 1349  
insurance for purposes relating to the administration of Chapter 1350

3953. of the Revised Code, to the commissioner of securities of 1351  
the department of commerce for purposes relating to the 1352  
administration of Chapter 1707. of the Revised Code, or to local 1353  
law enforcement agencies and local prosecutors. Information 1354  
released pursuant to this section remains confidential. The 1355  
superintendent of financial institutions, by rule, may designate 1356  
additional state agencies and regulatory authorities as entities 1357  
with which to share this confidential information. 1358

**Sec. 1323.31.** No person, in connection with any examination 1359  
or investigation conducted by the superintendent of financial 1360  
institutions of the department of commerce under this chapter, 1361  
shall knowingly do any of the following: 1362

(A) Circumvent, interfere with, obstruct, or fail to 1363  
cooperate, including making a false or misleading statement, 1364  
failing to produce records, or intimidating or suborning any 1365  
witness; 1366

(B) Withhold, abstract, remove, mutilate, destroy, or secrete 1367  
any books, records, computer records, or other information; 1368

(C) Tamper with, alter, or manufacture any evidence. 1369

**Sec. 1323.32.** (A) No mortgage servicer, through its 1370  
operations manager or otherwise, shall fail to reasonably 1371  
supervise persons the servicer employs or associates with, or to 1372  
establish reasonable procedures to avoid violations of sections 1373  
1323.20 to 1323.37 of the Revised Code or the rules adopted 1374  
thereunder, violations of applicable state and federal consumer 1375  
and lending laws or rules by persons the servicer employs or 1376  
associates with. 1377

(B) Within ten business days of any change in a mortgage 1378  
servicer's statutory agent designation or address, the servicer 1379  
shall file with the superintendent of financial institutions of 1380

the department of commerce evidence that the servicer has filed 1381  
such changes with the secretary of state. 1382

(C)(1) At least thirty days prior to the closure of a 1383  
registered office location, a mortgage servicer shall notify the 1384  
superintendent by filing a notice of closure on a form approved by 1385  
the superintendent. The notice shall indicate the custodian of the 1386  
records and where the records will be maintained. Within five 1387  
business days after the closure, the servicer shall surrender the 1388  
certificate of registration issued to that location by returning 1389  
it to the superintendent. 1390

(2) The closure of an office and the surrender of a 1391  
certificate does not affect a mortgage servicer's civil or 1392  
criminal liability for acts committed before the surrender. 1393

(D) A mortgage servicer shall maintain books and records in 1394  
compliance with this chapter and make them available to the 1395  
superintendent of financial institutions of the department of 1396  
commerce. After any closure, records remain subject to examination 1397  
and or investigation. The servicer shall send the superintendent 1398  
written notice of any change in the location of the records or the 1399  
custodian of those records. 1400

**Sec. 1323.33.** (A) No mortgage servicer shall refuse to 1401  
provide information regarding the amount required to pay in full a 1402  
residential mortgage loan when the borrower or a person the 1403  
borrower designates makes that request in writing. The servicer 1404  
shall provide the requested payoff statement without charge one 1405  
time during any twelve-month period. If additional payoff 1406  
statements are requested, the servicer may charge an amount not in 1407  
excess of three dollars for each additional statement. The 1408  
servicer shall provide any payoff statement within five business 1409  
days of the request. 1410

(B) No mortgage servicer shall obtain a certificate of 1411

registration through any false or fraudulent representation of a 1412  
material fact or any omission of a material fact required by state 1413  
or federal law, or make any substantial misrepresentation in the 1414  
registration application. 1415

(C) No mortgage servicer shall make false or misleading 1416  
statements of a material fact, omissions of statements required by 1417  
state or federal law, or false promises regarding a material fact, 1418  
through advertising or other means, or engage in a continued 1419  
course of misrepresentations. 1420

(D) No mortgage servicer shall engage in conduct that 1421  
constitutes improper, fraudulent, or dishonest dealings. 1422

(E) No mortgage servicer or applicant for registration shall 1423  
fail to notify the superintendent of financial institutions of the 1424  
department of commerce within thirty days after the servicer or 1425  
applicant has: 1426

(1) Been convicted of or pleads guilty or nolo contendere in 1427  
a domestic, foreign, or military court to any criminal felony 1428  
offense; 1429

(2) Been convicted of or pleads guilty or nolo contendere in 1430  
a domestic, foreign, or military court to any criminal offense 1431  
involving theft, receiving stolen property, embezzlement, forgery, 1432  
fraud, passing bad checks, money laundering, breach of trust, 1433  
dishonesty, or drug trafficking, or any criminal offense involving 1434  
money or securities; 1435

(3) Had a mortgage servicer registration, license, or 1436  
comparable authority revoked in any other state. 1437

(F) No mortgage servicer shall knowingly make, propose, or 1438  
solicit fraudulent, false, or misleading statements on any 1439  
mortgage servicing document or on any document related to an 1440  
accounting of payments remitted or disbursed. For purposes of this 1441  
division, "fraudulent, false, or misleading statements" does not 1442

include mathematical errors, inadvertent transposition of numbers, 1443  
typographical errors, or any other bona fide error. 1444

(G) No mortgage servicer shall knowingly instruct, solicit, 1445  
propose, or otherwise cause a borrower to sign in blank a 1446  
document. 1447

(H) Any violation of division (C), (D), (F), or (G) of this 1448  
section, or section 1323.34, 1323.35, or 1323.36 of the Revised 1449  
Code is an unfair and deceptive act or practice in violation of 1450  
section 1345.02 of the Revised Code. 1451

**Sec. 1323.34.** (A) In addition to the duties imposed by common 1452  
law or state or federal law a mortgage servicer shall do all of 1453  
the following: 1454

(1) Act with good faith and fair dealing in any transaction, 1455  
practice, or course of business associated with servicing; 1456

(2) Act with reasonable skill, care, and diligence; 1457

(3) Act in good faith to provide the borrower with the facts 1458  
relating to the nature and extent of any delinquency or default 1459  
and the amounts owed or necessary to reinstate the loan or cure 1460  
the default; 1461

(4) Subject to the servicer's duties and obligations under 1462  
its mortgage servicing contract, attempt a resolution, 1463  
modification, or workout to the delinquency of a borrower who 1464  
requests assistance. 1465

(5) Make a good faith effort to correct any erroneous 1466  
information it has provided to any credit reporting agency; 1467

(6) Make all payments from any escrow account in a timely 1468  
manner, so as to avoid the assessment of late fees, penalties, or 1469  
consequential damages, notwithstanding any loan delinquency, 1470  
unless there are insufficient funds in the escrow account to cover 1471  
the payments; 1472

(7) Accept and credit each residential mortgage loan payment 1473  
received on the date received; 1474

(8) Take all steps necessary to terminate a foreclosure 1475  
action when the condition giving rise to action has been fully 1476  
cured. Upon cure of a default, the servicer shall reinstate the 1477  
borrower to the same position as if the default had not occurred, 1478  
and nullify, as of the date of the cure, any acceleration of any 1479  
obligation under the residential mortgage loan or note arising 1480  
from the default. 1481

(9) In addition to the duties enumerated in sections 1323.20 1482  
to 1323.37 of the Revised Code, any mortgage servicer for a 1483  
government-insured loan shall comply with the loss mitigation 1484  
standards and guidelines as required by the insuring entity. 1485

(B) When establishing a loan modification solution for a 1486  
borrower, a mortgage servicer shall seek to achieve long-term 1487  
sustainability for the borrower and adhere to the loan 1488  
modification standards established under section 1323.05 of the 1489  
Revised Code. 1490

**Sec. 1323.35.** No mortgage servicer shall do any of the 1491  
following in connection with a residential mortgage loan: 1492

(A) Collect, charge, or retain any fee from the borrower 1493  
unless the fee is reasonable, for a bona fide service rendered, 1494  
and specifically authorized by the residential mortgage loan and 1495  
permitted by law; 1496

(B) Initiate a foreclosure action without proof of ownership 1497  
as evidenced by a declaration signed under penalty of perjury, 1498  
stating that the party in interest has reviewed the original note 1499  
and all subsequent assignments and has concluded that the party in 1500  
interest owns the note or mortgage; 1501

(C) Fail to provide written notice to the borrower before 1502

acquiring and placing hazard, homeowner's, or flood insurance on a 1503  
property or acquiring and placing such insurance if the mortgage 1504  
servicer knows, or has reason to know, that a policy for such 1505  
insurance is in effect; 1506

(D) Acquire and place hazard, homeowner's, or flood insurance 1507  
on a property for an amount that exceeds the greater of the 1508  
insurable improvements to the property, the last known coverage 1509  
amount that was sufficient to meet the borrower's insurance 1510  
obligations, or the unpaid balance owed by the borrower. 1511

(E) Fail to refund unearned premiums for insurance the 1512  
mortgage servicer or its agents placed upon the borrower, 1513  
providing there is reasonable evidence that the needed coverage 1514  
had been obtained, the forced placement is not necessary, and the 1515  
property is properly insured in accordance with the loan or note. 1516

**Sec. 1323.36.** (A) No mortgage servicer shall use unfair, 1517  
deceptive or unconscionable means to collect or attempt to collect 1518  
any claim in connection with a residential mortgage loan. Without 1519  
limiting the general application of the foregoing, the following 1520  
actions violate this section: 1521

(1) The collection or the attempt to collect any interest or 1522  
other charge, fee, or expense that is incidental to the principal 1523  
obligation, unless expressly authorized by the agreement creating 1524  
the obligation and by law, including division (A) of section 1525  
1323.35 of the Revised Code; 1526

(2) Any communication with a borrower if the mortgage 1527  
servicer knows that the borrower is represented by an attorney and 1528  
the attorney's name and address are known or could be easily 1529  
ascertained. This prohibition does not apply if the borrower's 1530  
attorney fails to respond within thirty days to answer 1531  
correspondence, return phone calls, or discuss the obligation in 1532  
question, or the attorney consents to the servicer having direct 1533

communication with the borrower; 1534

(3) Placing a telephone call or otherwise communicating by 1535  
telephone with a borrower or third party, at any place including a 1536  
place of employment, and falsely stating that the call is "urgent" 1537  
or an "emergency"; 1538

(4) Using profane or obscene language or language that is 1539  
intended to unreasonably abuse the listener or reader; 1540

(5) Placing telephone calls without disclosure of the 1541  
caller's identity and with the intent to annoy, harass, or 1542  
threaten any person at the number called; 1543

(6) Causing expense to any person in the form of long 1544  
distance telephone tolls, text messaging fees, or other charges 1545  
the servicer causes by concealing the true purpose of the 1546  
communication; 1547

(7) Causing a telephone to ring or engaging any person in a 1548  
telephone conversation repeatedly or continuously, or at unusual 1549  
times or times known to be inconvenient, with the intent to annoy, 1550  
abuse, oppress, or threaten any person at the called number. 1551

(B) The requirements set forth in this section are in 1553  
addition to any other requirement set forth in federal or state 1554  
law regulating the conduct of collection activities, including the 1555  
federal fair debt collection practices act, 91 Stat. 874 (1977), 1556  
15 U.S.C. sec. 1692 et seq. 1557

**Sec. 1323.361.** (A) No mortgage servicer, in conducting a 1558  
mortgage servicer business, shall engage in any unfair, deceptive 1559  
or unconscionable act in violation of Chapter 1345. of the Revised 1560  
Code. Any violation of the sections set forth in division (H) of 1561  
section 1323.33 or section 1323.34, 1323.35, or 1323.36 of the 1562  
Revised Code is an unfair and deceptive act or practice in 1563

violation of section 1345.02 of the Revised Code. The attorney 1564  
general may take enforcement action and a borrower may seek 1565  
recovery under Chapter 1345. of the Revised Code for the 1566  
violations set forth in this division. 1567

(B) A borrower injured by a violation of division (A) of this 1568  
section may not recover damages, attorney's fees, and costs under 1569  
Chapter 1345. of the Revised Code if the borrower has recovered 1570  
damages in a cause of action initiated under section 1323.37 of 1571  
the Revised Code and the damages sought under Chapter 1345. of the 1572  
Revised Code are based on the same acts or circumstances as the 1573  
damages awarded under section 1323.37 of the Revised Code. 1574

**Sec. 1323.37.** (A) A borrower injured by a violation of 1575  
sections 1323.20 to 1323.37 of the Revised Code may recover 1576  
damages in an amount not less than all improper charges or fees 1577  
paid to the mortgage servicer, plus reasonable attorney's fees and 1578  
court costs and also may be awarded punitive damages. 1579

(B) Nothing in this section prevents recovery under division 1580  
(A)(2) or (C) of section 1323.21. of the Revised Code. 1581

(C) A borrower may not recover damages, attorney's fees, or 1582  
costs under this section if the borrower also recovered damages in 1583  
an action initiated under any section of Chapter 1321. or 1345. of 1584  
the Revised Code and the damages so awarded were based on the same 1585  
acts or circumstances as the damages sought under this section. 1586

**Sec. 1323.99.** (A) Whoever violates division (A)(1) or (2) of 1588  
section 1323.21, or division (F) or (G) of section 1323.33 of the 1589  
Revised Code is guilty of a felony of the fifth degree. 1590

(B) Whoever violates section 1323.31 of the Revised Code with 1591  
the intent to interfere or obstruct an examination or 1592

investigation is guilty of a felony of the fourth degree. 1593

Sec. 2303.33. (A) No clerk of court shall accept a complaint 1594  
to initiate a foreclosure on a residential mortgage loan unless 1595  
the filing contains a copy of the notice and information required 1596  
by section 1323.02 of the Revised Code. These copies shall be 1597  
filed under seal in connection with the foreclosure, along with a 1598  
certification by the filer that all required notices and 1599  
information were provided to the borrower and the requisite 1600  
periods of time have elapsed. 1601

(B) No clerk of courts shall accept a complaint to initiate a 1602  
foreclosure on a residential mortgage unless that complaint is 1603  
accompanied by the writing described in section 2308.02 of the 1604  
Revised Code. 1605

(C) A clerk of court of common pleas or other judicial 1606  
officer in this state, may access the mortgage foreclosure 1607  
database established pursuant to section 1323.07 of the Revised 1608  
Code to confirm information provided pursuant to this section. A 1609  
materially inaccurate statement in the filer's certification is 1610  
cause for dismissal of the action without prejudice and for 1611  
payment by the filing party of costs the borrower incurs in 1612  
defending the foreclosure proceeding. 1613

(D) Within three business days after issuing a writ of 1614  
execution in a residential foreclosure action as described in 1615  
section 2329.091 of the Revised Code, the clerk of court shall 1616  
file information of that action with the administrative director 1617  
of the Ohio supreme court for inclusion in the foreclosure 1618  
database. The filing shall contain the name and address of the 1619  
borrower, the date of the writ, and the name of the mortgage 1620  
servicer or mortgage holder that filed the complaint to initiate 1621  
the foreclosure action. 1622

(E) As used in this section, "residential mortgage," 1623

"residential mortgage loan," and "mortgage servicer" have the same 1624  
meanings as in section 1323.01 of the Revised Code. 1625

Sec. 2308.01. As used in this chapter, "residential 1626  
mortgage," "residential mortgage loan," "mortgage servicer" have 1627  
the same meanings as in section 1323.01 of the Revised Code. 1628

Sec. 2308.02. (A) No person shall file a complaint to 1629  
initiate a residential mortgage foreclosure action unless that 1630  
complaint is accompanied by a writing that contains all of the 1631  
following: 1632

(1) A statement setting forth the name of the holder of the 1633  
note and asserting that the named holder is the true party in 1634  
interest with a right to file the action; 1635

(2) A statement as to whether the mortgage note has been 1636  
securitized and if so, the identity of any mortgage-backed 1637  
security that holds the loan and the name of the trustee of that 1638  
mortgage-backed security; 1639

(3) A statement of the plaintiff's counsel or person filing 1640  
the complaint asserting that the counsel or person filing the 1641  
complaint is the designated representative of the true party in 1642  
interest, is authorized to negotiate on behalf of the plaintiff, 1643  
and is not an intermediary representative of the plaintiff; 1644

(4) A statement as to whether the residential property is 1645  
occupied and the date that its occupancy status last was assessed; 1646

(5) Evidence that a certified check for fifteen hundred 1647  
dollars has been transmitted to the department of commerce as 1648  
required under section 1323.11 of the Revised Code, or evidence 1649  
that such an amount was transmitted within the past twenty-four 1650  
months for a filing with respect to the same property and the same 1651  
mortgage loan, or a statement that the fee requirement does not 1652  
apply because the property is not occupied at the time of filing. 1653

(B) Any complaint to initiate a residential mortgage foreclosure action shall be accompanied by a copy of an appraisal of the property, conducted within the prior three months by an appraiser who is certified or licensed pursuant to Chapter 4763. of the Revised Code to perform residential appraisals. 1654  
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**Sec. 2308.03.** (A) There is hereby declared a six-month moratorium on mortgage foreclosure actions on residential properties occupied by the owner of the property or the tenant of that owner, to commence on the effective date of this section. 1660  
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(B) During the time of the moratorium, all of the following apply with respect to mortgage foreclosure actions on occupied residential properties: 1664  
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(1) No court shall hear a complaint for foreclosure or issue a judgment on such a property. 1667  
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(2) No clerk of court shall issue a writ of execution on such a property. 1669  
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(3) No foreclosed property shall be sold at auction nor shall any auction be scheduled to conduct such a sale. 1671  
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(4) No court shall confirm the sale at auction of such a property. 1673  
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(C)(1) During the moratorium, a borrower shall make payments each month in an amount equal to one-half of the monthly payment that was in effect at the time the foreclosure action was filed, or other amount that the judge determines is just and equitable. The payments shall be allocated first for taxes and insurance if the borrower's mortgage loan required such payments into escrow, then to interest and any remaining amounts to principal. The borrower shall make the payments to the mortgage servicer to whom the borrower made payments at the time the foreclosure action was 1675  
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filed. 1684

(2) No mortgage servicer shall refuse to accept the payments that this section describes. 1685  
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(D)(1) If a borrower fails to make the payments that this section requires, thirty days after a missed payment, the party who filed the action may petition the court for the foreclosure action to resume and that action shall resume as if there were no moratorium. 1687  
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(E) At any time during the moratorium, a borrower may petition the court to request that the foreclosure action on the borrower's property proceed as if there were no moratorium. 1692  
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(F) Nothing in this section prevents the granting of a default judgment when the property is not occupied by the borrower or the borrower's tenant, when the borrower did not answer the complaint, or when the borrower without good cause does not appear at the hearing. 1695  
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(G) During the time of the moratorium, the borrower shall make a good faith effort to maintain the property and shall grant entry to inspect the property to the servicer or other representative of the servicer or mortgagee, upon a twenty-four-hour written notice from the servicer. 1700  
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(H) The moratorium this section provides does not apply to foreclosures that are filed by credit unions and depository institutions that service their own mortgage loans, when the mortgage loan that is being foreclosed is held and serviced by such a credit union or depository institution. 1705  
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**Sec. 2308.04.** (A) For a period of three years after the effective date of this section, in a residential mortgage foreclosure action that was filed prior to January 1, 2009, a judge has discretion to reduce the interest rate of the loan to an 1710  
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amount the judge determines is just and equitable and would enable 1714  
the borrower to make payments and retain the property if the 1715  
mortgage is a subprime mortgage loan as defined in section 1323.01 1716  
of the Revised Code. 1717

(B) If a reduced interest rate does not lower the loan 1718  
payments to a reasonable amount, the judge may extend the term of 1719  
the mortgage or otherwise reduce the loan payment to a reasonable 1720  
amount. The judge shall reduce the loan payment in this manner 1721  
only if in consideration of the appraised value of the property 1722  
and other equitable considerations, including a finding that both 1723  
parties would benefit from such a modification, that under all the 1724  
circumstances, the modification appears just and equitable, and 1725  
the modification would enable the borrower to make payments and 1726  
retain the property; 1727

(C) Any adjustment in mortgage payments a judge makes 1728  
pursuant to this section shall be for not more than five years. 1729  
Any difference in the payments the court establishes pursuant to 1730  
this section and the payments due pursuant to the mortgage 1731  
contract shall be due as a balloon payment at the end of the 1732  
modification period. No interest shall accrue on this amount. 1733  
During the time of the adjustment, the court shall maintain 1734  
jurisdiction over the payments and may modify those payments as 1735  
this section permits at any time as conditions merit and upon 1736  
petition from the mortgagee. 1737

(D) The director of commerce shall establish in chart form 1738  
information that servicers may use to determine if a mortgage loan 1739  
is a subprime loan. The chart shall disclose the appropriate 1740  
interest rate triggers that determine if a loan is a subprime loan 1741  
for each week of the period this section covers. A servicer who 1742  
relies on the chart to determine if a loan is a subprime loan may 1743  
not be held liable for any violation with respect to that error. 1744

**Section 2.** Section 2308.03 of the Revised Code is hereby 1745  
repealed, effective six months after the effective date of this 1746  
act. 1747

**Section 3.** Section 2308.04 of the Revised Code is hereby 1748  
repealed, effective three years after the effective date of this 1749  
act. 1750

**Section 4.** That existing sections 109.572 and 1321.52 of the 1751  
Revised Code are hereby repealed. 1752

**Section 5.** Section 109.572 of the Revised Code is presented 1753  
in this act as a composite of the section as amended by Sub. H.B. 1754  
195, Sub. H.B. 545, and Sub. S.B. 247, all of the 127th General 1755  
Assembly. The General Assembly, applying the principle stated in 1756  
division (B) of section 1.52 of the Revised Code that amendments 1757  
are to be harmonized if reasonably capable of simultaneous 1758  
operation, finds that the composite is the resulting version of 1759  
the section in effect prior to the effective date of the section 1760  
as presented in this act. 1761

**Section 6.** The General Assembly enacts sections 2308.03 and 1762  
2308.04 of the Revised Code as extraordinary measures necessary to 1763  
respond to an emergency situation created by the mortgage 1764  
foreclosure crisis in this state. The high rate of residential 1765  
mortgage foreclosures is proving harmful to families, lenders, and 1766  
communities alike. The purpose of enacting these sections is to 1767  
mitigate the very negative impact of the current situation and to 1768  
preserve property values by providing time for solutions to begin 1769  
to have an impact. These solutions that need time to be effective 1770  
include modifying loans in a manner beneficial to all parties 1771  
concerned and implementing federal and state initiatives that 1772  
provide assistance and guidance to homeowners, lenders, and 1773

communities. 1774

**Section 7.** Sections 1323.20 to 1323.37 and section 2303.33 of 1775  
the Revised Code take effect six months after the effective date 1776  
of this act. During that six month period, the Superintendent of 1777  
Financial Institutions of the Department of Commerce may take 1778  
applications for registration as a mortgage servicer as the 1779  
delayed sections provide and otherwise process the applications. 1780  
When the delayed sections become effective, the superintendent may 1781  
approve such registrations and issue certificates of registration. 1782

**Section 8.** This act is hereby declared to be an emergency 1783  
measure necessary for the immediate preservation of the public 1784  
peace, health, and safety. The reason for such necessity is the 1785  
alarming rate of increase in mortgage foreclosures, with 1786  
devastating impact on homeowners and communities alike, making 1787  
immediate intervention and assistance necessary to allow owners an 1788  
opportunity to explore alternatives and resolve problems so that 1789  
they keep their homes and to halt and reverse the negative impact 1790  
of vacant and foreclosed homes on the health and safety of 1791  
communities. Therefore, this act shall go into immediate effect. 1792