

**As Passed by the House**

**128th General Assembly**

**Regular Session**

**2009-2010**

**Am. Sub. S. B. No. 124**

**Senators Faber, Schiavoni**

**Cosponsors: Senators Seitz, Fedor, Schuler, Kearney, Miller, D., Carey,  
Harris, Hughes, Patton, Strahorn, Wagoner, Gibbs, Stewart, Miller, R.,  
Sawyer, Turner, Wilson**

**Representatives Harwood, Mecklenborg, Stebelton, Adams, J., Bolon,  
Carney, Combs, Daniels, Dodd, Domenick, Gerberry, Hackett, Huffman,  
Letson, Luckie, Murray, Okey, Patten, Sayre, Slesnick, Stautberg**

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**A B I L L**

To amend sections 317.114, 1321.51, 1321.522,	1
1321.53, 1321.531, 1321.532, 1321.533, 1321.535,	2
1321.54, 1321.55, 1321.59, 1322.01, 1322.02,	3
1322.022, 1322.023, 1322.03, 1322.031, 1322.04,	4
1322.041, 1322.062, 1322.07, 1322.074, 1322.10,	5
1322.99, 1343.011, 1345.01, 1345.05, 1345.09,	6
1349.31, 1349.43, 1541.083, 1733.252, 5302.01,	7
5302.02, 5302.22, 5302.221, 5302.23, and 5815.36,	8
to enact sections 5302.222 and 5302.24 of the	9
Revised Code, and to amend Section 745.60 of Am.	10
Sub. H.B. 1 of the 128th General Assembly to	11
change the transfer on death (TOD) designation	12
instrument from a deed to an affidavit, to allow	13
real property owners holding title in survivorship	14
tenancy to execute such an affidavit, to clarify	15
the status of a trustee of a trust as a TOD	16
beneficiary and the dower rights of the spouse of	17
the property owner, to make other changes	18

pertaining to the transfer on death of real 19  
property, to modify the mortgage lending laws, to 20  
temporarily authorize a treasurer or prosecuting 21  
attorney of a county with a population of more 22  
than 800,000 but less than 900,000 to designate 23  
that part of any surplus balance in the county's 24  
Delinquent Tax and Assessment Collection Fund be 25  
used to pay operating expenses of the respective 26  
office in lieu of county general fund money, to 27  
allow a county recorder to accept for filing 28  
certain nonconforming documents without charging 29  
the fees otherwise required to be collected for 30  
nonconforming documents, relative to coal mining 31  
leases at Burr Oak State Park, to authorize the 32  
Governor to execute a release of reversionary 33  
interest in certain real estate located in 34  
Auglaize County, and to declare an emergency. 35

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

**Section 1.** That sections 317.114, 1321.51, 1321.522, 1321.53, 36  
1321.531, 1321.532, 1321.533, 1321.535, 1321.54, 1321.55, 1321.59, 37  
1322.01, 1322.02, 1322.022, 1322.023, 1322.03, 1322.031, 1322.04, 38  
1322.041, 1322.062, 1322.07, 1322.074, 1322.10, 1322.99, 1343.011, 39  
1345.01, 1345.05, 1345.09, 1349.31, 1349.43, 1541.083, 1733.252, 40  
5302.01, 5302.02, 5302.22, 5302.221, 5302.23, and 5815.36 be 41  
amended and sections 5302.222 and 5302.24 of the Revised Code be 42  
enacted to read as follows: 43

**Sec. 317.114.** (A) Except as otherwise provided in ~~division~~ 44  
divisions (B) and (C) of this section, an instrument or document 45  
presented for recording to the county recorder shall have been 46  
prepared in accordance with all of the following requirements: 47

(1) <del>Print</del> <u>Legible print</u> size not smaller than a <del>computer</del> font size of ten;	48 49
(2) Minimum paper size of eight and one-half inches by eleven inches;	50 51
(3) Maximum paper size of eight and one-half inches by fourteen inches;	52 53
(4) Black or blue ink only;	54
(5) No use of highlighting;	55
(6) Margins of one-inch width on each side of each page of the instrument or document;	56 57
(7) A margin of one-inch width across the bottom of each page of the instrument or document;	58 59
(8) A three-inch margin of blank space across the top of the first page of each instrument or document to accommodate any certification or indorsement of the county engineer, county auditor, or county recorder, as may be required by law, with the right half of that margin being reserved for the indorsement of the county recorder required by section 317.12 of the Revised Code; and	60 61 62 63 64 65 66
(9) A one and one-half-inch margin <u>of blank space</u> across the top of each of the remaining pages of the instrument or document <u>to accommodate any certification or indorsement of the county engineer, county auditor, or county recorder, as may be required by law.</u>	67 68 69 70 71
<u>The (B)(1) Except as otherwise provided in division (B)(2) of this section,</u> the county recorder shall accept for recording an instrument or document that does not conform to the <del>foregoing</del> requirements <u>set forth in division (A) of this section</u> but shall charge and collect the following additional fees for each such instrument or document: an additional base fee for the recorder's	72 73 74 75 76 77

services of ten dollars and a housing trust fund fee of ten 78  
dollars, which shall be collected pursuant to section 317.36 of 79  
the Revised Code. 80

(2) The county recorder shall accept for recording an 81  
instrument or document that does not conform to the requirements 82  
set forth in division (A) of this section but shall not charge and 83  
collect the additional fees specified in division (B)(1) of this 84  
section for page numbers, hand-written, typed, or printed 85  
initials, bar codes, copyright information, trailing portions of 86  
signatures, plat description of any oil and gas well location or 87  
drilling unit or lease, or any other incidental information that 88  
is not essential to the recording process or to the legal validity 89  
of the instrument or document and that may appear in either of the 90  
side margins or in the bottom margin. In addition, notary stamps 91  
and seals and any signatures and initials that may appear within 92  
the instrument or document need not satisfy the font size 93  
requirement and no additional fees may be charged or collected by 94  
the county recorder for such a nonconformance. 95

~~(B)~~(C) This section does not apply to any of the following: 96

(1) Any document that originates with any court or taxing 97  
authority; 98

(2) Any document authorized to be recorded under section 99  
317.24 of the Revised Code; 100

(3) Any plat, as defined in section 711.001 of the Revised 101  
Code, that is required or authorized by the Revised Code to be 102  
recorded; 103

(4) Any document authorized to be recorded that originates 104  
from any state or federal agency; 105

(5) Any document executed before ~~the effective date of this~~ 106  
~~section~~ July 1, 2009. 107

Sec. 1321.51. As used in sections 1321.51 to 1321.60 of the	108
Revised Code:	109
(A) "Person" means an individual, partnership, association,	110
trust, corporation, or any other legal entity.	111
(B) "Certificate" means a certificate of registration issued	112
under sections 1321.51 to 1321.60 of the Revised Code.	113
(C) "Registrant" means a person to whom one or more	114
certificates of registration have been issued under sections	115
1321.51 to 1321.60 of the Revised Code.	116
(D) "Principal amount" means the amount of cash paid to, or	117
paid or payable for the account of, the borrower, and includes any	118
charge, fee, or expense that is financed by the borrower at	119
origination of the loan or during the term of the loan.	120
(E) "Interest" means all charges payable directly or	121
indirectly by a borrower to a registrant as a condition to a loan	122
or an application for a loan, however denominated, but does not	123
include default charges, deferment charges, insurance charges or	124
premiums, court costs, loan origination charges, check collection	125
charges, credit line charges, points, prepayment penalties, or	126
other fees and charges specifically authorized by law.	127
(F) "Interest-bearing loan" means a loan in which the debt is	128
expressed as the principal amount and interest is computed,	129
charged, and collected on unpaid principal balances outstanding	130
from time to time.	131
(G) "Precomputed loan" means a loan in which the debt is a	132
sum comprising the principal amount and the amount of interest	133
computed in advance on the assumption that all scheduled payments	134
will be made when due.	135
(H) "Actuarial method" means the method of allocating	136
payments made on a loan between the principal amount and interest	137

whereby a payment is applied first to the accumulated interest and 138  
the remainder to the unpaid principal amount. 139

(I) "Applicable charge" means the amount of interest 140  
attributable to each monthly installment period of the loan 141  
contract. The applicable charge is computed as if each installment 142  
period were one month and any charge for extending the first 143  
installment period beyond one month is ignored. In the case of 144  
loans originally scheduled to be repaid in sixty-one months or 145  
less, the applicable charge for any installment period is that 146  
proportion of the total interest contracted for, as the balance 147  
scheduled to be outstanding during that period bears to the sum of 148  
all of the periodic balances, all determined according to the 149  
payment schedule originally contracted for. In all other cases, 150  
the applicable charge for any installment period is that which 151  
would have been made for such period had the loan been made on an 152  
interest-bearing basis, based upon the assumption that all 153  
payments were made according to schedule. 154

(J) "Broker" means a person who acts as an intermediary or 155  
agent in finding, arranging, or negotiating loans, other than 156  
residential mortgage loans, and charges or receives a fee for 157  
these services. 158

(K) "Annual percentage rate" means the ratio of the interest 159  
on a loan to the unpaid principal balances on the loan for any 160  
period of time, expressed on an annual basis. 161

(L) "Point" means a charge equal to one per cent of either of 162  
the following: 163

(1) The principal amount of a precomputed loan or 164  
interest-bearing loan; 165

(2) The original credit line of an open-end loan. 166

(M) "Prepayment penalty" means a charge for prepayment of a 167  
loan at any time prior to five years from the date the loan 168

contract is executed.	169
(N) "Refinancing" means a loan the proceeds of which are used	170
in whole or in part to pay the unpaid balance of a prior loan made	171
by the same registrant to the same borrower under sections 1321.51	172
to 1321.60 of the Revised Code.	173
(O) "Superintendent of financial institutions" includes the	174
deputy superintendent for consumer finance as provided in section	175
1181.21 of the Revised Code.	176
(P)(1) "Mortgage loan originator" means an individual who for	177
compensation or gain, or in anticipation of compensation or gain,	178
does any of the following:	179
(a) Takes or offers to take a residential mortgage loan	180
application;	181
(b) Assists or offers to assist a borrower in obtaining or	182
applying to obtain a residential mortgage loan by, among other	183
things, advising on loan terms, including rates, fees, and other	184
costs;	185
(c) Offers or negotiates terms of a residential mortgage	186
loan;	187
(d) Issues or offers to issue a commitment for a residential	188
mortgage loan to a borrower.	189
(2) "Mortgage loan originator" does not include any of the	190
following:	191
(a) An individual who performs purely administrative or	192
clerical tasks on behalf of a mortgage loan originator;	193
(b) A person licensed pursuant to Chapter 4735. of the	194
Revised Code, or under the similar law of another state, who	195
performs only real estate brokerage activities permitted by that	196
license, provided the person is not compensated by a mortgage	197
lender, mortgage broker, mortgage loan originator, or by any agent	198

thereof;	199
(c) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101, in effect on January 1, 2009;	200 201 202
(d) A person acting solely as a loan processor or underwriter, who does not represent to the public, through advertising or other means of communicating, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the person can or will perform any of the activities of a mortgage loan originator;	203 204 205 206 207 208
(e) A loan originator licensed under sections 1322.01 to 1322.12 of the Revised Code, when acting solely under that authority;	209 210 211
(f) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or another mortgage loan originator, or by any agent thereof;	212 213 214 215 216
(g) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units if, in connection with financing those retail sales, the person only assists the borrower by providing or transmitting the loan application and does not do any of the following:	217 218 219 220 221
(i) Offer or negotiate the residential mortgage loan rates or terms;	222 223
(ii) Provide any counseling with borrowers about residential mortgage loan rates or terms;	224 225
(iii) Receive any payment or fee from any company or individual for assisting the borrower obtain or apply for financing to purchase the manufactured home, mobile home, or	226 227 228



industrialized unit;	229
(iv) Assist the borrower in completing the residential mortgage loan application.	230 231
(3) An individual acting exclusively as a servicer engaging in loss mitigation efforts with respect to existing mortgage transactions shall not be considered a mortgage loan originator for purposes of sections 1321.51 to 1321.60 of the Revised Code until July 1, 2011, unless such delay is denied by the United States department of housing and urban development.	232 233 234 235 236 237
(Q) "Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this division, "dwelling" has the same meaning as in the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C. 1602.	238 239 240 241 242 243 244
(R) "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators, or their successor entities, for the licensing and registration of mortgage loan originators, or any system established by the secretary of housing and urban development pursuant to the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.	245 246 247 248 249 250 251 252
(S) "Registered mortgage loan originator" means an individual to whom both of the following apply:	253 254
(1) The individual is a mortgage loan originator and an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration.	255 256 257 258 259

(2) The individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry. 260  
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(T) "Administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan. 263  
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(U) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, and the federal deposit insurance corporation. 268  
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(V) "Loan processor or underwriter" means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensed mortgage loan originator or registered mortgage loan originator. For purposes of this division, to "perform" clerical or support duties ~~includes~~ means to do all of the following activities: 273  
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(1) ~~The receipt~~ Receiving, ~~collection~~ collecting, ~~distribution~~ distributing, and ~~analysis of~~ analyzing information common for the processing or underwriting of a residential mortgage loan; 279  
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(2) Communicating with a borrower to obtain the information necessary for the processing or underwriting of a loan, to the extent the communication does not include offering or negotiating loan rates or terms or counseling borrowers about residential mortgage loan rates or terms. 283  
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(W) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including all of the following: 288  
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(1) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;	291 292
(2) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;	293 294
(3) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing for any such transaction;	295 296 297 298
(4) Engaging in any activity for which a person engaged in that activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law;	299 300 301
(5) Offering to engage in any activity, or to act in any capacity, described in division (W) of this section.	302 303
(X) "Licensee" means any person that has been issued a mortgage loan originator license under sections 1321.51 to 1321.60 of the Revised Code.	304 305 306
(Y) "Unique identifier" means a number or other identifier that permanently identifies a mortgage loan originator and is assigned by protocols established by the nationwide mortgage licensing system and registry or federal banking agencies to facilitate electronic tracking of mortgage loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against mortgage loan originators.	307 308 309 310 311 312 313 314
(Z) "State" in the context of referring to states in addition to Ohio means any state of the United States, the district of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the trust territory of the Pacific islands, the virgin islands, and the northern Mariana islands.	315 316 317 318 319
(AA) "Depository institution" has the same meaning as in	320

section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813, and includes any credit union.

(BB) "Bona fide third party" means a person that is not an employee of, related to, or affiliated with, the registrant, and that is not used for the purpose of circumvention or evasion of sections 1321.51 to 1321.60 of the Revised Code.

(CC) "Nontraditional mortgage product" means any mortgage product other than a thirty-year fixed rate mortgage.

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

(EE) "Primary point of contact" means the employee or owner designated by the registrant or applicant to be the individual who the division of financial institutions can contact regarding compliance or licensing matters relating to the registrant's or applicant's business or lending activities secured by an interest in real estate.

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

(GG) "Mortgage broker" has the same meaning as in section 1322.01 of the Revised Code.

**Sec. 1321.522.** (A) A credit union service organization seeking exemption from registration pursuant to division (D)(6) of section 1321.53 of the Revised Code shall submit an application to

the superintendent of financial institutions along with a 351  
nonrefundable fee of three hundred fifty dollars for each location 352  
of an office to be maintained by the organization. The application 353  
shall be in a form prescribed by the superintendent and shall 354  
include all of the following: 355

(1) The organization's business name and state of 356  
incorporation; 357

(2) The names of the owners, officers, or partners having 358  
control of the organization; 359

(3) An attestation to all of the following: 360

(a) That the organization and its owners, officers, or 361  
partners identified in division (A)(2) of this section have not 362  
had a mortgage lender certificate of registration or mortgage loan 363  
originator license, or any comparable authority, revoked in any 364  
governmental jurisdiction; 365

(b) That the organization and its owners, officers, or 366  
partners identified in division (A)(2) of this section have not 367  
been convicted of, or pleaded guilty or nolo contendere to, any of 368  
the following in a domestic, foreign, or military court: 369

(i) During the seven-year period immediately preceding the 370  
date of application for exemption, ~~any felony or~~ a misdemeanor 371  
involving theft or any felony; 372

(ii) At any time prior to the date of application for 373  
exemption, a felony involving an act of fraud, dishonesty, a 374  
breach of trust, theft, or money laundering. 375

(c) That, with respect to financing residential mortgage 376  
loans, the organization conducts business with residents of this 377  
state or secures its loans with property located in this state. 378

(4) The names of all mortgage loan originators or licensees 379  
under the organization's control and direction; 380

(5) An acknowledgment of understanding that the organization 381  
is subject to the regulatory authority of the division of 382  
financial institutions; 383

(6) Any further information that the superintendent may 384  
require. 385

(B)(1) If the superintendent determines that the credit union 386  
service organization honestly made the attestation required under 387  
division (A)(3) of this section and otherwise qualifies for 388  
exemption, the superintendent shall issue a letter of exemption. 389  
Additional certified copies of a letter of exemption shall be 390  
provided upon request and the payment of seventy-five dollars per 391  
copy. 392

(2) If the superintendent determines that the organization 393  
does not qualify for exemption, the superintendent shall issue a 394  
notice of denial, and the organization may request a hearing in 395  
accordance with Chapter 119. of the Revised Code. 396

(C) All of the following conditions apply to any credit union 397  
service organization holding a valid letter of exemption: 398

(1) The organization shall be subject to examination in the 399  
same manner as a registrant with respect to the conduct of the 400  
organization's mortgage loan originators. In conducting any 401  
out-of-state examination, the organization shall be responsible 402  
for paying the costs of the division in the same manner as a 403  
registrant. 404

(2) The organization shall have an affirmative duty to 405  
supervise the conduct of its mortgage loan originators, and to 406  
cooperate with investigations by the division with respect to that 407  
conduct, in the same manner as is required of registrants. 408

(3) The organization shall keep and maintain records of all 409  
transactions relating to the conduct of its mortgage loan 410  
originators in the same manner as is required of registrants. 411

(4) The organization may provide the surety bond for its mortgage loan originators in the same manner as is permitted for registrants.

(D) A letter of exemption expires annually on the thirty-first day of December and may be renewed on or before that date by submitting an application that meets the requirements of division (A) of this section and a nonrefundable renewal fee of three hundred fifty dollars for each location of an office to be maintained by the credit union service organization.

(E) The superintendent may issue a notice to revoke or suspend a letter of exemption if the superintendent finds that the letter was obtained through a false or fraudulent representation of a material fact, or the omission of a material fact, required by law, or that a condition for exemption is no longer being met. Prior to issuing an order of revocation or suspension, the credit union service organization shall be given an opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

(F) All information obtained by the division pursuant to an examination or investigation under this section shall be subject to the confidentiality requirements set forth in section 1321.55 of the Revised Code.

(G) All money collected under this section shall be deposited into the state treasury to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

**Sec. 1321.53.** (A)(1) An application for a certificate of registration under sections 1321.51 to 1321.60 of the Revised Code shall contain an undertaking by the applicant to abide by those sections. The application shall be in writing, under oath, and in the form prescribed by the division of financial institutions, and shall contain any information that the division may require. Applicants that are foreign corporations shall obtain and maintain

a license pursuant to Chapter 1703. of the Revised Code before a 443  
certificate is issued or renewed. 444

(2) Upon the filing of the application and the payment by the 445  
applicant of a nonrefundable two hundred dollar investigation fee, 446  
a nonrefundable three hundred dollar annual registration fee, and 447  
any additional fee required by the nationwide mortgage licensing 448  
system and registry, the division shall investigate the relevant 449  
facts. If the application involves investigation outside this 450  
state, the applicant may be required by the division to advance 451  
sufficient funds to pay any of the actual expenses of such 452  
investigation, when it appears that these expenses will exceed two 453  
hundred dollars. An itemized statement of any of these expenses 454  
which the applicant is required to pay shall be furnished to the 455  
applicant by the division. No certificate shall be issued unless 456  
all the required fees have been submitted to the division. 457

(3) All applicants making loans secured by an interest in 458  
real estate shall designate an employee or owner of the applicant 459  
as the applicant's primary point of contact. While acting as the 460  
primary point of contact, the employee or owner shall not be 461  
employed by any other registrant or mortgage broker. 462

(4) The investigation undertaken upon application shall 463  
include both a civil and criminal records check of the applicant 464  
including any individual whose identity is required to be 465  
disclosed in the application. Where the applicant is a business 466  
entity the superintendent shall have the authority to require a 467  
civil and criminal background check of those persons that in the 468  
determination of the superintendent have the authority to direct 469  
and control the operations of the applicant. 470

(5)(a) Notwithstanding division (K) of section 121.08 of the 471  
Revised Code, the superintendent of financial institutions shall 472  
obtain a criminal history records check and, as part of that 473  
records check, request that criminal record information from the 474



federal bureau of investigation be obtained. To fulfill this 475  
requirement, the superintendent shall do either of the following: 476

(i) Request the superintendent of the bureau of criminal 477  
identification and investigation, or a vendor approved by the 478  
bureau, to conduct a criminal records check based on the 479  
applicant's fingerprints or, if the fingerprints are unreadable, 480  
based on the applicant's social security number, in accordance 481  
with division (A)(12) of section 109.572 of the Revised Code; 482

(ii) Authorize the nationwide mortgage licensing system and 483  
registry to request a criminal history background check as set 484  
forth in division (C) of section 1321.531 of the Revised Code. 485

(b) Any fee required under division (C)(3) of section 109.572 486  
of the Revised Code or by the nationwide mortgage licensing system 487  
and registry shall be paid by the applicant. 488

(6) If an application for a certificate of registration does 489  
not contain all of the information required under division (A) of 490  
this section, and if such information is not submitted to the 491  
division or to the nationwide mortgage licensing system and 492  
registry within ninety days after the superintendent or the 493  
nationwide mortgage licensing system and registry requests the 494  
information in writing, including by electronic transmission or 495  
facsimile, the superintendent may consider the application 496  
withdrawn. 497

(7) If the division finds that the financial responsibility, 498  
experience, character, and general fitness of the applicant 499  
command the confidence of the public and warrant the belief that 500  
the business will be operated honestly and fairly in compliance 501  
with the purposes of sections 1321.51 to 1321.60 of the Revised 502  
Code and the rules adopted thereunder, and that the applicant has 503  
the requisite bond or applicable net worth and assets required by 504  
division (B) of this section, the division shall thereupon issue a 505

certificate of registration to the applicant. The superintendent 506  
shall not use a credit score as the sole basis for a registration 507  
denial. 508

(a)(i) Certificates of registration issued on or after July 509  
1, 2010, shall annually expire on the thirty-first day of 510  
December, unless renewed by the filing of a renewal application 511  
and payment of a three hundred dollar nonrefundable annual 512  
registration fee, any assessment as determined by the 513  
superintendent pursuant to division (A)(7)(a)(ii) of this section, 514  
and any additional fee required by the nationwide mortgage 515  
licensing system and registry, on or before the last day of 516  
December of each year. No other fee or assessment shall be 517  
required of a registrant by the state or any political subdivision 518  
of this state. 519

(ii) If the renewal fees billed by the superintendent 520  
pursuant to division (A)(7)(a)(i) of this section are less than 521  
the estimated expenditures of the consumer finance section of the 522  
division of financial institutions, as determined by the 523  
superintendent, for the following fiscal year, the superintendent 524  
may assess each registrant at a rate sufficient to equal in the 525  
aggregate the difference between the renewal fees billed and the 526  
estimated expenditures. Each registrant shall pay the assessed 527  
amount to the superintendent prior to the last day of June. In no 528  
case shall the assessment exceed ten cents per each one hundred 529  
dollars of interest (excluding charge-off recoveries), points, 530  
loan origination charges, and credit line charges collected by 531  
that registrant during the previous calendar year. If such an 532  
assessment is imposed, it shall not be less than two hundred fifty 533  
dollars per registrant and shall not exceed thirty thousand 534  
dollars less the total renewal fees paid pursuant to division 535  
(A)(7)(a)(i) of this section by each registrant. 536

(b) Registrants shall timely file renewal applications on 537

forms prescribed by the division and provide any further 538  
information that the division may require. If a renewal 539  
application does not contain all of the information required under 540  
this section, and if that information is not submitted to the 541  
division or to the nationwide mortgage licensing system and 542  
registry within ninety days after the superintendent or the 543  
nationwide mortgage licensing system and registry requests the 544  
information in writing, including by electronic transmission or 545  
facsimile, the superintendent may consider the application 546  
withdrawn. 547

(c) Renewal shall not be granted if the applicant's 548  
certificate of registration is subject to an order of suspension, 549  
revocation, or an unpaid and past due fine imposed by the 550  
superintendent. 551

(d) If the division finds the applicant does not meet the 552  
conditions set forth in this section, it shall issue a notice of 553  
intent to deny the application, and forthwith notify the applicant 554  
of the denial, the grounds for the denial, and the applicant's 555  
reasonable opportunity to be heard on the action in accordance 556  
with Chapter 119. of the Revised Code. 557

(8) If there is a change of five per cent or more in the 558  
ownership of a registrant, the division may make any investigation 559  
necessary to determine whether any fact or condition exists that, 560  
if it had existed at the time of the original application for a 561  
certificate of registration, the fact or condition would have 562  
warranted the division to deny the application under division 563  
(A)(7) of this section. If such a fact or condition is found, the 564  
division may, in accordance with Chapter 119. of the Revised Code, 565  
revoke the registrant's certificate. 566

(B) Each registrant that engages in lending under sections 567  
1321.51 to 1321.60 of the Revised Code shall, if not otherwise 568  
required to be bonded pursuant to section 1321.533 of the Revised 569

Code, maintain both of the following: 570

(1) A net worth of at least fifty thousand dollars; 571

(2) For each certificate of registration, assets of at least 572  
fifty thousand dollars either in use or readily available for use 573  
in the conduct of the business. 574

(C) Not more than one place of business shall be maintained 575  
under the same certificate, but the division may issue additional 576  
certificates to the same registrant upon compliance with sections 577  
1321.51 to 1321.60 of the Revised Code, governing the issuance of 578  
a single certificate. No change in the place of business of a 579  
registrant to a location outside the original municipal 580  
corporation shall be permitted under the same certificate without 581  
the approval of a new application, the payment of the registration 582  
fee and, if required by the superintendent, the payment of an 583  
investigation fee of two hundred dollars. When a registrant wishes 584  
to change its place of business within the same municipal 585  
corporation, it shall give written notice of the change in advance 586  
to the division, which shall provide a certificate for the new 587  
address without cost. If a registrant changes its name, prior to 588  
making loans under the new name it shall give written notice of 589  
the change to the division, which shall provide a certificate in 590  
the new name without cost. Sections 1321.51 to 1321.60 of the 591  
Revised Code do not limit the loans of any registrant to residents 592  
of the community in which the registrant's place of business is 593  
situated. Each certificate shall be kept conspicuously posted in 594  
the place of business of the registrant and is not transferable or 595  
assignable. 596

(D) Sections 1321.51 to 1321.60 of the Revised Code do not 597  
apply to any of the following: 598

(1) Entities chartered and lawfully doing business under the 599  
authority of any law of this state, another state, or the United 600

States as a bank, savings bank, trust company, savings and loan association, or credit union, or a subsidiary of any such entity, which subsidiary is regulated by a federal banking agency and is owned and controlled by such a depository institution;

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

(3) Any person that is a lender making a loan pursuant to sections 1321.01 to 1321.19 of the Revised Code or a business loan as described in division (B)(6) of section 1343.01 of the Revised Code;

(4) Any political subdivision, or any governmental or other public entity, corporation, instrumentality, or agency, in or of the United States or any state of the United States, or any entity described in division (B)(3) of section 1343.01 of the Revised Code;

(5) A college or university, or controlled entity of a college or university, as those terms are defined in section 1713.05 of the Revised Code;

(6) A credit union service organization, provided the organization utilizes services provided by registered mortgage loan originators or the organization complies with section 1321.522 of the Revised Code and holds a valid letter of exemption issued by the superintendent.

(E) No person engaged in the business of selling tangible goods or services related to tangible goods may receive or retain a certificate under sections 1321.51 to 1321.60 of the Revised Code for such place of business.

**Sec. 1321.531.** (A) An application for a mortgage loan originator license shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions.

The application shall be accompanied by a nonrefundable 631  
application fee of one hundred fifty dollars and all other 632  
required fees, including any fees required by the nationwide 633  
mortgage licensing system and registry. 634

(B) The superintendent may establish relationships or enter 635  
into contracts with the nationwide mortgage licensing system and 636  
registry, or any entities designated by it, to collect and 637  
maintain records and process transaction fees or other fees 638  
related to mortgage loan originator licensees or other persons 639  
subject to or involved in their licensure. 640

(C) In connection with applying for a mortgage loan 641  
originator license, the applicant shall furnish to the nationwide 642  
mortgage licensing system and registry the following information 643  
concerning the applicant's identity: 644

(1) The applicant's fingerprints for submission to the 645  
federal bureau of investigation, and any other governmental agency 646  
or entity authorized to receive such information, for purposes of 647  
a state, national, and international criminal history background 648  
check; 649

(2) Personal history and experience in a form prescribed by 650  
the nationwide mortgage licensing system and registry, along with 651  
authorization for the superintendent and the nationwide mortgage 652  
licensing system and registry to obtain the following: 653

(a) An independent credit report from a consumer reporting 654  
agency; 655

(b) Information related to any administrative, civil, or 656  
criminal findings by any governmental jurisdiction. 657

(D) In order to effectuate the purposes of divisions (C)(1) 658  
and (C)(2)(b) of this section, the superintendent may use the 659  
conference of state bank supervisors, or a wholly owned 660

subsidiary, as a channeling agent for requesting information from 661  
and distributing information to the United States department of 662  
justice or any other governmental agency. The superintendent may 663  
also use the nationwide mortgage licensing system and registry as 664  
a channeling agent for requesting information from and 665  
distributing information to any source related to matters subject 666  
to divisions (C)(2)(a) and (b) of this section. 667

(E) Upon the filing of the application, payment of the 668  
application fee, and payment of any additional fee, including any 669  
fee required by the nationwide mortgage licensing system and 670  
registry, the superintendent shall investigate the applicant as 671  
set forth in division (E) of this section. 672

(1)(a) Notwithstanding division (K) of section 121.08 of the 673  
Revised Code, the superintendent shall obtain a criminal history 674  
records check and, as part of that records check, request that 675  
criminal record information from the federal bureau of 676  
investigation be obtained. To fulfill this requirement, the 677  
superintendent shall do either of the following: 678

(i) Request the superintendent of the bureau of criminal 679  
identification and investigation, or a vendor approved by the 680  
bureau, to conduct a criminal records check based on the 681  
applicant's fingerprints or, if the fingerprints are unreadable, 682  
based on the applicant's social security number in accordance with 683  
division (A)(12) of section 109.572 of the Revised Code; 684

(ii) Authorize the nationwide mortgage licensing system and 685  
registry to request a criminal history background check as set 686  
forth in division (C) of this section. 687

(b) Any fee required under division (C)(3) of section 109.572 688  
of the Revised Code or by the nationwide mortgage licensing system 689  
and registry shall be paid by the applicant. 690

(2) The superintendent of financial institutions shall 691

conduct a civil records check. 692

(3) If, in order to issue a license to an applicant, 693  
additional investigation by the superintendent outside this state 694  
is necessary, the superintendent may require the applicant to 695  
advance sufficient funds to pay the actual expenses of the 696  
investigation, if it appears that these expenses will exceed one 697  
hundred dollars. The superintendent shall provide the applicant 698  
with an itemized statement of the actual expenses that the 699  
applicant is required to pay. 700

(F) If an application for a mortgage loan originator license 701  
does not contain all of the information required under this 702  
section, and if that information is not submitted to the 703  
superintendent or to the nationwide mortgage licensing system and 704  
registry within ninety days after the superintendent or the 705  
nationwide mortgage licensing system and registry requests the 706  
information in writing, including by electronic transmission or 707  
facsimile, the superintendent may consider the application 708  
withdrawn. 709

**Sec. 1321.532.** (A) Upon the conclusion of the investigation 710  
required under division (E) of section 1321.531 of the Revised 711  
Code, the superintendent of financial institutions shall issue a 712  
mortgage loan originator license to the applicant if the 713  
superintendent finds that all of the following conditions are met: 714

(1) The application is accompanied by the application fee and 715  
any additional fee required by the nationwide mortgage licensing 716  
system and registry. 717

If a check or other draft instrument is returned to the 718  
superintendent for insufficient funds, the superintendent shall 719  
notify the licensee by certified mail, return receipt requested, 720  
that the license issued in reliance on the check or other draft 721  
instrument will be canceled unless the licensee, within thirty 722



days after receipt of the notice, submits the application fee and 723  
a one-hundred-dollar penalty to the superintendent. If the 724  
licensee does not submit the application fee and penalty within 725  
that time period, or if any check or other draft instrument used 726  
to pay the fee or penalty is returned to the superintendent for 727  
insufficient funds, the license shall be canceled immediately 728  
without a hearing, and the licensee shall cease activity as a 729  
mortgage loan originator. 730

(2) The applicant complies with sections 1321.51 to 1321.60 731  
of the Revised Code. 732

(3) The applicant has not had a mortgage loan originator 733  
license, or comparable authority, revoked in any governmental 734  
jurisdiction. 735

(4) The applicant has not been convicted of, or pleaded 736  
guilty or nolo contendere to, any of the following in a domestic, 737  
foreign, or military court: 738

(a) During the seven-year period immediately preceding the 739  
date of application for licensure, ~~any felony or~~ a misdemeanor 740  
involving theft or any felony; 741

(b) At any time prior to the date of application for 742  
licensure, a felony involving an act of fraud, dishonesty, a 743  
breach of trust, theft, or money laundering. 744

(5) Based on the totality of the circumstances and 745  
information submitted in the application, the applicant has proven 746  
to the division of financial institutions, by a preponderance of 747  
the evidence, that the applicant is of good business repute, 748  
appears qualified to act as a mortgage loan originator, and has 749  
fully complied with sections 1321.51 to 1321.60 of the Revised 750  
Code and rules adopted thereunder, and that the applicant meets 751  
all of the conditions for issuing a mortgage loan originator 752  
license. 753

(6) The applicant successfully completed the written test 754  
required under section 1321.535 of the Revised Code and the 755  
education requirements set forth in section 1321.534 of the 756  
Revised Code. 757

(7) The applicant is covered under a valid bond in compliance 758  
with section 1321.533 of the Revised Code. 759

(8) The applicant's financial responsibility, character, and 760  
general fitness command the confidence of the public and warrant 761  
the belief that the mortgage loan originator will operate honestly 762  
and fairly in compliance with the purposes of sections 1321.51 to 763  
1321.60 of the Revised Code. The superintendent shall not use a 764  
credit score as the sole basis for a license denial. 765

(B) The license issued under division (A) of this section may 766  
be renewed annually on or before the thirty-first day of December 767  
if the superintendent finds that all of the following conditions 768  
are met: 769

(1) The renewal application is accompanied by a nonrefundable 770  
renewal fee of one hundred fifty dollars, and any additional fee 771  
required by the nationwide mortgage licensing system and registry. 772  
If a check or other draft instrument is returned to the 773  
superintendent for insufficient funds, the superintendent shall 774  
notify the licensee by certified mail, return receipt requested, 775  
that the license renewed in reliance on the check or other draft 776  
instrument will be canceled unless the licensee, within thirty 777  
days after receipt of the notice, submits the renewal fee and a 778  
one-hundred-dollar penalty to the superintendent. If the licensee 779  
does not submit the renewal fee and penalty within that time 780  
period, or if any check or other draft instrument used to pay the 781  
fee or penalty is returned to the superintendent for insufficient 782  
funds, the license shall be canceled immediately without a 783  
hearing, and the licensee shall cease activity as a mortgage loan 784  
originator. 785

(2) The applicant has completed at least eight hours of continuing education as required under section 1321.536 of the Revised Code.

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

(4) The applicant's license is not subject to an order of suspension or an unpaid and past due fine imposed by the superintendent.

(C)(1) Subject to division (C)(2) of this section, if a license renewal application or fee, including any additional fee required by nationwide mortgage licensing system and registry, is received by the superintendent after the thirty-first day of December, the license shall not be considered renewed, and the applicant shall cease activity as a mortgage loan originator.

(2) Division (C)(1) of this section shall not apply if the applicant, no later than the thirty-first day of January, submits the renewal application and fee, including any additional fee required by nationwide mortgage licensing system and registry, and a one-hundred-dollar penalty to the superintendent.

(D) Mortgage loan originator licenses issued on or after July 1, 2010, shall annually expire on the thirty-first day of December.

(E) If a renewal application does not contain all of the information required under this section, and if that information is not submitted to the superintendent or to the nationwide mortgage licensing system and registry within ninety days after the superintendent or the nationwide mortgage licensing system and registry requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn.

**Sec. 1321.533.** (A)(1) A registrant engaged in residential mortgage loan activity shall not conduct business in this state, unless the registrant ~~maintains the net worth and assets required under division (B) of section 1321.53 of the Revised Code~~ or has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state.

(a) The bond shall be in favor of the superintendent of financial institutions.

(b) The bond shall be in the penal sum of one-half per cent of the aggregate loan amount of residential mortgage loans originated in the immediately preceding calendar year, but not exceeding one hundred fifty thousand dollars. Under no circumstances, however, shall the bond be less than fifty thousand dollars and an additional penal sum of ten thousand dollars for each location, in excess of one, at which the registrant conducts business.

(c) The term of the bond shall coincide with the term of registration.

(d) A copy of the bond shall be filed with the superintendent.

(e) The bond shall be for the exclusive benefit of any borrower injured by a violation by an employee, licensee, or registrant of any provision of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder.

(f) The aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond.

(2) An individual licensed as a mortgage loan originator and employed or associated with an exempt entity as set forth in

division (D) of section 1321.53 of the Revised Code shall not 846  
conduct business in this state, unless either the licensee or the 847  
exempt entity on the licensee's behalf has obtained and maintains 848  
in effect at all times a corporate surety bond issued by a bonding 849  
company or insurance company authorized to do business in this 850  
state. 851

(a) The bond shall be in favor of the superintendent. 852

(b) The bond shall be in the penal sum of one-half per cent 853  
of the aggregate loan amount of residential mortgage loans 854  
originated in the immediately preceding calendar year, but not 855  
exceeding one hundred thousand dollars. Under no circumstances, 856  
however, shall the bond be less than fifty thousand dollars. 857

(c) The term of the bond shall coincide with the term of 858  
licensure. 859

(d) A copy of the bond shall be filed with the 860  
superintendent. 861

(e) The bond shall be for the exclusive benefit of any 862  
borrower injured by a violation by the licensee of any provision 863  
of sections 1321.51 to 1321.60 of the Revised Code or the rules 864  
adopted thereunder. 865

(f) The aggregate liability of the corporate surety for any 866  
and all breaches of the conditions of the bond shall not exceed 867  
the penal sum of the bond. 868

(g) Licensees covered by a corporate surety bond obtained by 869  
a registrant or exempt entity they are employed by or associated 870  
with shall not be required to obtain an individual bond. 871

(B)(1) The registrant or licensee shall give notice to the 872  
superintendent by certified mail of any action that is brought by 873  
a borrower against the licensee, registrant, or any mortgage loan 874  
originator of the registrant alleging injury by a violation of any 875

provision of sections 1321.51 to 1321.60 of the Revised Code, and 876  
of any judgment that is entered against the licensee, registrant, 877  
or mortgage loan originator of the registrant by a borrower 878  
injured by a violation of any provision of sections 1321.51 to 879  
1321.60 of the Revised Code. The notice shall provide details 880  
sufficient to identify the action or judgment, and shall be filed 881  
with the superintendent within ten days after the commencement of 882  
the action or notice to the registrant or licensee of entry of a 883  
judgment. An exempt entity securing bonding for the licensees in 884  
their employ shall report those actions by a borrower in the same 885  
manner as is required of registrants. 886

(2) A corporate surety, within ten days after it pays any 887  
claim or judgment, shall give notice to the superintendent by 888  
certified mail of the payment, with details sufficient to identify 889  
the person and the claim or judgment paid. 890

(C) Whenever the penal sum of the corporate surety bond is 891  
reduced by one or more recoveries or payments, the registrant or 892  
separately bonded licensee shall furnish a new or additional bond 893  
under this section, so that the total or aggregate penal sum of 894  
the bond or bonds equals the sum required by this section, or 895  
shall furnish an endorsement executed by the corporate surety 896  
reinstating the bond to the required penal sum of it. 897

(D) The liability of the corporate surety on the bond to the 898  
superintendent and to any borrower injured by a violation of any 899  
provision of sections 1321.51 to 1321.60 of the Revised Code shall 900  
not be affected in any way by any misrepresentation, breach of 901  
warranty, or failure to pay the premium, by any act or omission 902  
upon the part of the registrant or licensee, by the insolvency or 903  
bankruptcy of the registrant or licensee, or by the insolvency of 904  
the registrant's or licensee's estate. The liability for any act 905  
or omission that occurs during the term of the corporate surety 906  
bond shall be maintained and in effect for at least two years 907

after the date on which the corporate surety bond is terminated or 908  
canceled. 909

(E) The corporate surety bond shall not be canceled by the 910  
registrant, the licensee, or the corporate surety except upon 911  
notice to the superintendent by certified mail, return receipt 912  
requested. The cancellation shall not be effective prior to thirty 913  
days after the superintendent receives the notice. 914

(F) No registrant or licensee shall fail to comply with this 915  
section. Any registrant or licensee that fails to comply with this 916  
section shall cease all mortgage lender or mortgage loan 917  
originator activity in this state until the registrant or licensee 918  
has complied with this section. 919

**Sec. 1321.535.** (A) Each applicant for a mortgage loan 920  
originator license shall submit to a written test that is 921  
developed and approved by the nationwide mortgage licensing system 922  
and registry and administered by a test provider approved by the 923  
nationwide mortgage licensing system and registry based upon 924  
reasonable standards. 925

(1) The test shall adequately measure the applicant's 926  
knowledge and comprehension in appropriate subject matters, 927  
including ethics and federal and state law related to mortgage 928  
origination, fraud, consumer protection, the nontraditional 929  
mortgage marketplace, and fair lending issues. 930

(2) An individual shall not be considered to have passed the 931  
test unless the individual achieves a test score of at least 932  
seventy-five per cent correct answers on all questions and at 933  
least seventy-five per cent correct answers on all questions 934  
relating to Ohio mortgage lending laws and the Ohio consumer sales 935  
practices act, Chapter 1345. of the Revised Code, as it applies to 936  
registrants and licensees. 937

(3) An individual may retake the test three consecutive times 938  
provided the period between taking the tests is at least thirty 939  
days. 940

(4) After failing three consecutive tests, an individual 941  
shall be required to wait at least six months before taking the 942  
test again. 943

(5) If a mortgage loan originator fails to maintain a valid 944  
license for a period of five years or longer, the individual shall 945  
be required to retake the test. For this purpose, any time during 946  
which the individual is a registered mortgage loan originator 947  
shall not be taken into account. 948

(B) Notwithstanding division (A) of this section, if the 949  
nationwide mortgage licensing system and registry fails to have in 950  
place a testing process that meets the criteria set forth in that 951  
division, the superintendent shall require, until that process is 952  
in place, evidence that the mortgage loan originator applicant 953  
passed a written test acceptable to the superintendent. 954

**Sec. 1321.54.** (A) The division of financial institutions may 955  
adopt, in accordance with Chapter 119. of the Revised Code, rules 956  
that are necessary for the enforcement or administration of 957  
sections 1321.51 to 1321.60 of the Revised Code and that are 958  
consistent with those sections and rules to carry out the purposes 959  
of those sections. 960

(B)(1) The division may, upon written notice to the 961  
registrant or licensee stating the contemplated action, the 962  
grounds for the action, and the registrant's or licensee's 963  
reasonable opportunity to be heard on the action in accordance 964  
with Chapter 119. of the Revised Code, revoke, suspend, or refuse 965  
to renew any certificate or license issued under sections 1321.51 966  
to 1321.60 of the Revised Code if it finds any of the following: 967



(a) A violation of or failure to comply with any provision of 968  
sections 1321.51 to 1321.60 of the Revised Code or the rules 969  
adopted thereunder, any federal lending law, or any other law 970  
applicable to the business conducted under a certificate of 971  
registration or license; 972

(b) The person has been convicted of or pleaded guilty or 973  
nolo contendere to any criminal felony offense in a domestic, 974  
foreign, or military court; 975

(c) The person has been convicted of or pleaded guilty or 976  
nolo contendere to any criminal offense involving theft, receiving 977  
stolen property, embezzlement, forgery, fraud, passing bad checks, 978  
money laundering, breach of trust, dishonesty, or drug 979  
trafficking, or any criminal offense involving money or 980  
securities, in a domestic, foreign, or military court; 981

(d) The person's mortgage lender certificate of registration 982  
or mortgage loan originator license, or comparable authority, has 983  
been revoked in any governmental jurisdiction. 984

(2) In addition to, or in lieu of, any revocation, 985  
suspension, or denial, the division may impose a monetary fine 986  
after administrative hearing or in settlement of matters subject 987  
to claims under division (B)(1)(a) of this section. 988

(3) Subject to division (D)(3) of section 1321.52 of the 989  
Revised Code, the revocation, suspension, or refusal to renew 990  
shall not impair the obligation of any pre-existing lawful 991  
contract made under sections 1321.51 to 1321.60 of the Revised 992  
Code; provided, however, that a prior registrant shall make good 993  
faith efforts to promptly transfer the registrant's collection 994  
rights to another registrant or person exempt from registration, 995  
or be subject to additional monetary fines and legal or 996  
administrative action by the division. Nothing in division (B)(3) 997  
of this section shall limit a court's ability to impose a cease 998

and desist order preventing any further business or servicing activity. 999  
1000

(C)(1) The superintendent of financial institutions may 1001  
impose a fine for a violation of sections 1321.51 to 1321.60 of 1002  
the Revised Code or any rule adopted thereunder. All fines 1003  
collected pursuant to this section shall be paid to the treasurer 1004  
of state to the credit of the consumer finance fund created in 1005  
section 1321.21 of the Revised Code. In determining the amount of 1006  
a fine to be imposed pursuant to this section, the superintendent 1007  
may consider all of the following to the extent it is known to the 1008  
division of financial institutions: 1009

(a) The seriousness of the violation; 1010

(b) The registrant's or licensee's good faith efforts to 1011  
prevent the violation; 1012

(c) The registrant's or licensee's history regarding 1013  
violations and compliance with division orders; 1014

(d) The registrant's or licensee's financial resources; 1015

(e) Any other matters the superintendent considers 1016  
appropriate in enforcing sections 1321.51 to 1321.60 of the 1017  
Revised Code. 1018

(2) Monetary fines imposed under this division shall not 1019  
exceed twenty-five thousand dollars and do not preclude any 1020  
criminal fine imposed pursuant to section 1321.99 of the Revised 1021  
Code. 1022

(D) The superintendent may investigate alleged violations of 1023  
sections 1321.51 to 1321.60 of the Revised Code, or the rules 1024  
adopted thereunder, or complaints concerning any such violation. 1025  
The superintendent may make application to the court of common 1026  
pleas for an order enjoining any violation and, upon a showing by 1027  
the superintendent that a person has committed, or is about to 1028

commit, a violation, the court shall grant an injunction, 1029  
restraining order, or other appropriate relief. The 1030  
superintendent, in making application to the court of common pleas 1031  
for an order enjoining a person from acting as a registrant or 1032  
mortgage loan originator in violation of division (A) or (E) of 1033  
section 1321.52 of the Revised Code, may also seek and obtain 1034  
civil penalties for that unregistered or unlicensed conduct in an 1035  
amount not to exceed five thousand dollars per violation. 1036

(E) In conducting an investigation pursuant to this section, 1037  
the superintendent may compel, by subpoena, witnesses to testify 1038  
in relation to any matter over which the superintendent has 1039  
jurisdiction, and may require the production or photocopying of 1040  
any book, record, or other document pertaining to such matter. If 1041  
a person fails to file any statement or report, obey any subpoena, 1042  
give testimony, produce any book, record, or other document as 1043  
required by such a subpoena, or permit photocopying of any book, 1044  
record, or other document subpoenaed, the court of common pleas of 1045  
any county in this state, upon application made to it by the 1046  
superintendent, shall compel obedience by attachment proceedings 1047  
for contempt, as in the case of disobedience of the requirements 1048  
of a subpoena issued from the court, or a refusal to testify 1049  
therein. 1050

(F) If the superintendent determines that a person is engaged 1051  
in, or is believed to be engaged in, activities that may 1052  
constitute a violation of sections 1321.51 to 1321.60 of the 1053  
Revised Code or the rules adopted thereunder, the superintendent 1054  
may, after notice and a hearing conducted in accordance with 1055  
Chapter 119. of the Revised Code, issue a cease and desist order. 1056  
The superintendent, in taking administrative action to enjoin a 1057  
person from acting as a registrant or mortgage loan originator in 1058  
violation of division (A) or (E) of section 1321.52 of the Revised 1059  
Code, may also seek and impose fines for those violations in an 1060

amount not to exceed five thousand dollars per violation. Such an order shall be enforceable in the court of common pleas.

(G) The superintendent shall regularly report violations of sections 1321.51 to 1321.60 of the Revised Code, as well as enforcement actions and other relevant information, to the nationwide mortgage licensing system and registry pursuant to division (E) of section 1321.55 of the Revised Code.

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

(a) Suspend the certificate of registration or license of a person who is convicted of or pleads guilty or nolo contendere to a criminal violation of sections 1321.51 to 1321.60 of the Revised Code or any criminal offense described in division (B)(1)(b) or (c) of this section;

(b) Suspend the certificate of registration or license of a person who violates division (F) of section 1321.533 of the Revised Code;

(c) Suspend the certificate of registration or license of a person who fails to comply with a request made by the superintendent under this section or section 1321.55 of the Revised Code to inspect qualifying education transcripts located at the registrant's or licensee's place of business.

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

(3) The superintendent shall, in accordance with Chapter 119. of the Revised Code, adopt rules establishing the maximum amount of time a suspension under division (H)(1) of this section may continue before a hearing is conducted.

**Sec. 1321.55.** (A) Every registrant shall keep records

pertaining to loans made under sections 1321.51 to 1321.60 of the Revised Code. Such records shall be segregated from records pertaining to transactions that are not subject to these sections of the Revised Code. Every registrant shall preserve records pertaining to loans made under sections 1321.51 to 1321.60 of the Revised Code for at least two years after making the final entry on such records. Accounting systems maintained in whole or in part by mechanical or electronic data processing methods that provide information equivalent to that otherwise required are acceptable for this purpose. At least once each eighteen-month cycle, the division of financial institutions shall make or cause to be made an examination of records pertaining to loans made under sections 1321.51 to 1321.60 of the Revised Code, for the purpose of determining whether the registrant is complying with these sections and of verifying the registrant's annual report.

(B)(1) As required by the superintendent of financial institutions, each registrant shall file with the division each year a report under oath or affirmation, on forms supplied by the division, concerning the business and operations for the preceding calendar year. Whenever a registrant operates two or more registered offices or whenever two or more affiliated registrants operate registered offices, then a composite report of the group of registered offices may be filed in lieu of individual reports.

(2) The division shall publish annually an analysis of the information required under division (B)(1) of this section, but the individual reports shall not be public records and shall not be open to public inspection.

(3) Each mortgage licensee shall submit to the nationwide mortgage licensing system and registry call reports or other reports of condition, which shall be in such form and shall contain such information as the nationwide mortgage licensing system and registry may require.

(C)(1) The following information is confidential: 1123

(a) Examination information, and any information leading to 1124  
or arising from an examination; 1125

(b) Investigation information, and any information arising 1126  
from or leading to an investigation. 1127

(2) The information described in division (C)(1) of this 1128  
section shall remain confidential for all purposes except when it 1129  
is necessary for the superintendent to take official action 1130  
regarding the affairs of a registrant or licensee, or in 1131  
connection with criminal or civil proceedings to be initiated by a 1132  
prosecuting attorney or the attorney general. This information may 1133  
also be introduced into evidence or disclosed when and in the 1134  
manner authorized by section 1181.25 of the Revised Code. 1135

(D) All application information, except social security 1136  
numbers, employer identification numbers, financial account 1137  
numbers, the identity of the institution where financial accounts 1138  
are maintained, personal financial information, fingerprint cards 1139  
and the information contained on such cards, and criminal 1140  
background information, is a public record as defined in section 1141  
149.43 of the Revised Code. 1142

(E) This section does not prevent the division of financial 1143  
institutions from releasing to or exchanging with other financial 1144  
institution regulatory authorities information relating to 1145  
registrants and licensees. For this purpose, a "financial 1146  
institution regulatory authority" includes a regulator of a 1147  
business activity in which a registrant or licensee is engaged, or 1148  
has applied to engage in, to the extent that the regulator has 1149  
jurisdiction over a registrant or licensee engaged in that 1150  
business activity. A registrant or licensee is engaged in a 1151  
business activity, and a regulator of that business activity has 1152  
jurisdiction over the registrant or licensee, whether the 1153

registrant or licensee conducts the activity directly or a 1154  
subsidiary or affiliate of the registrant or licensee conducts the 1155  
activity. 1156

(1) Any confidentiality or privilege arising under federal or 1157  
state law with respect to any information or material provided to 1158  
the nationwide mortgage licensing system and registry shall 1159  
continue to apply to the information or material after the 1160  
information or material has been provided to the nationwide 1161  
mortgage licensing system and registry. The information and 1162  
material so provided may be shared with all state and federal 1163  
regulatory officials with mortgage industry oversight authority 1164  
without the loss of confidentiality or privilege protections 1165  
provided by federal law or the law of any state. Information or 1166  
material described in division (E)(1) of this section to which 1167  
confidentiality or privilege applies shall not be subject to any 1168  
of the following: 1169

(a) Disclosure under any federal or state law governing 1170  
disclosure to the public of information held by an officer or an 1171  
agency of the federal government or of the respective state; 1172

(b) Subpoena or discovery, or admission into evidence, in any 1173  
private civil action or administrative process, unless the person 1174  
to whom such information or material pertains waives, in whole or 1175  
in part and at the discretion of the person, any privilege held by 1176  
the nationwide mortgage licensing system and registry with respect 1177  
to that information or material. 1178

(2) The superintendent, in order to promote more effective 1179  
regulation and reduce regulatory burden through supervisory 1180  
information sharing, may enter into sharing arrangements with 1181  
other governmental agencies, the conference of state bank 1182  
supervisors, and the American association of residential mortgage 1183  
regulators. 1184

(3) Any state law, including section 149.43 of the Revised Code, relating to the disclosure of confidential supervisory information or any information or material described in division (C)(1) or (E)(1) of this section that is inconsistent with this section shall be superseded by the requirements of this section.

(F) This section shall not apply with respect to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the nationwide mortgage licensing system and registry for access by the public.

(G) This section does not prevent the division from releasing information relating to registrants and licensees to the attorney general, to the superintendent of real estate and professional licensing for purposes relating to the administration of Chapters 4735. and 4763. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the commissioner of securities for purposes relating to the administration of Chapter 1707. of the Revised Code, or to local law enforcement agencies and local prosecutors. Information the division releases pursuant to this section remains confidential.

(H) The superintendent of financial institutions shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish a process by which mortgage loan originators may challenge information provided to the nationwide mortgage licensing system and registry by the superintendent.

(I) No person, in connection with any examination or investigation conducted by the superintendent under sections 1321.51 to 1321.60 of the Revised Code, shall knowingly do any of the following:

(1) Circumvent, interfere with, obstruct, or fail to



cooperate, including making a false or misleading statement, 1216  
failing to produce records, or intimidating or suborning any 1217  
witness; 1218

(2) Withhold, abstract, remove, mutilate, destroy, or secrete 1219  
any books, records, computer records, or other information; 1220

(3) Tamper with, alter, or manufacture any evidence. 1221

**Sec. 1321.59.** (A) No registrant under sections 1321.51 to 1222  
1321.60 of the Revised Code shall permit any borrower to be 1223  
indebted for a loan made under sections 1321.51 to 1321.60 of the 1224  
Revised Code at any time while the borrower is also indebted to an 1225  
affiliate or agent of the registrant for a loan made under 1226  
sections 1321.01 to 1321.19 of the Revised Code for the purpose or 1227  
with the result of obtaining greater charges than otherwise would 1228  
be permitted by sections 1321.51 to 1321.60 of the Revised Code. 1229

(B) No registrant shall induce or permit any person to become 1230  
obligated to the registrant under sections 1321.51 to 1321.60 of 1231  
the Revised Code, directly or contingently, or both, under more 1232  
than one contract of loan at the same time for the purpose or with 1233  
the result of obtaining greater charges than would otherwise be 1234  
permitted by sections 1321.51 to 1321.60 of the Revised Code. 1235

(C) No registrant shall refuse to provide information 1236  
regarding the amount required to pay in full a loan under sections 1237  
1321.51 to 1321.60 of the Revised Code when requested by the 1238  
borrower or by another person designated in writing by the 1239  
borrower. 1240

(D) On any loan or application for a loan under sections 1241  
1321.51 to 1321.60 of the Revised Code secured by a mortgage on a 1242  
borrower's real estate which is other than a first lien on the 1243  
real estate, no person shall pay or receive, directly or 1244  
indirectly, fees or any other type of compensation for services of 1245

a mortgage broker that, in the aggregate, exceed the lesser of one 1246  
thousand dollars or one per cent of the principal amount of the 1247  
loan. 1248

(E) No registrant or licensee shall obtain a certificate of 1249  
registration or license through any false or fraudulent 1250  
representation of a material fact or any omission of a material 1251  
fact required by state or federal law, or make any substantial 1252  
misrepresentation in the registration or license application, to 1253  
engage in lending secured by real estate. 1254

(F) No registrant or licensee, in connection with the 1255  
business of making or offering to make residential mortgage loans, 1256  
shall knowingly make false or misleading statements of a material 1257  
fact, omissions of statements required by state or federal law, or 1258  
false promises regarding a material fact, through advertising or 1259  
other means, or engage in a continued course of 1260  
misrepresentations. 1261

(G) No registrant, licensee, or person making loans without a 1262  
certificate of registration in violation of division (A) of 1263  
section 1321.52 of the Revised Code, shall knowingly engage in 1264  
conduct, in connection with the business of making or offering to 1265  
make residential mortgage loans, that constitutes improper, 1266  
fraudulent, or dishonest dealings. 1267

(H) No registrant, licensee, or applicant involved in the 1268  
business of making or offering to make residential mortgage loans 1269  
shall fail to notify the division of financial institutions within 1270  
thirty days after knowing any of the following: 1271

(1) That the registrant, licensee, or applicant has been 1272  
convicted of or pleaded guilty or nolo contendere to a felony 1273  
offense in a domestic, foreign, or military court; 1274

(2) That the registrant, licensee, or applicant has been 1275  
convicted of or pleaded guilty or nolo contendere to any criminal 1276

offense involving theft, receiving stolen property, embezzlement, 1277  
forgery, fraud, passing bad checks, money laundering, breach of 1278  
trust, dishonesty, or drug trafficking, or any criminal offense 1279  
involving money or securities, in a domestic, foreign, or military 1280  
court; 1281

(3) That the registrant, licensee, or applicant has had a 1282  
mortgage lender registration or mortgage loan originator license, 1283  
or comparable authority, revoked in any governmental jurisdiction. 1284

(I) No registrant or licensee shall knowingly make, propose, 1285  
or solicit fraudulent, false, or misleading statements on any 1286  
mortgage document or on any document related to a mortgage loan, 1287  
including a mortgage application, real estate appraisal, or real 1288  
estate settlement or closing document. For purposes of this 1289  
division, "fraudulent, false, or misleading statements" does not 1290  
include mathematical errors, inadvertent transposition of numbers, 1291  
typographical errors, or any other bona fide error. 1292

(J) No registrant or licensee shall knowingly instruct, 1293  
solicit, propose, or otherwise cause a borrower to sign in blank a 1294  
loan related document in connection with a residential mortgage 1295  
loan. 1296

(K) No registrant or licensee shall knowingly compensate, 1297  
instruct, induce, coerce, or intimidate, or attempt to compensate, 1298  
instruct, induce, coerce, or intimidate, a person licensed or 1299  
certified as an appraiser under Chapter 4763. of the Revised Code 1300  
for the purpose of corrupting or improperly influencing the 1301  
independent judgment of the person with respect to the value of 1302  
the dwelling offered as security for repayment of a mortgage loan. 1303

(L) No registrant or licensee shall willfully retain original 1304  
documents provided to the registrant or licensee by the borrower 1305  
in connection with the residential mortgage loan application, 1306  
including income tax returns, account statements, or other 1307

financial related documents. 1308

(M) No registrant or licensee shall, in connection with 1309  
making residential mortgage loans, receive, directly or 1310  
indirectly, a premium on the fees charged for services performed 1311  
by a bona fide third party. 1312

(N) No registrant or licensee shall, in connection with 1313  
making residential mortgage loans, pay or receive, directly or 1314  
indirectly, a referral fee or kickback of any kind to or from a 1315  
bona fide third party or other party with a related interest in 1316  
the transaction, including a home improvement builder, real estate 1317  
developer, or real estate broker or agent, for the referral of 1318  
business. Nothing in this division shall prevent remuneration to a 1319  
registrant or licensee for the licensed sale of any insurance 1320  
product that is permitted under section 1321.57 of the Revised 1321  
Code, provided there is no additional fee or premium added to the 1322  
cost for the insurance and paid directly or indirectly by the 1323  
borrower. 1324

(O) No registrant, licensee, or person making loans without a 1325  
certificate of registration in violation of division (A) of 1326  
section 1321.52 of the Revised Code shall, in connection with 1327  
making or offering to make residential mortgage loans, engage in 1328  
any unfair, deceptive, or unconscionable act or practice 1329  
prohibited under sections 1345.01 to 1345.13 of the Revised Code. 1330

**Sec. 1322.01.** As used in sections 1322.01 to 1322.12 of the 1331  
Revised Code: 1332

(A) "Buyer" means an individual who is solicited to purchase 1333  
or who purchases the services of a mortgage broker for purposes of 1334  
obtaining a residential mortgage loan. 1335

(B) "Consumer reporting agency" has the same meaning as in 1336  
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a, 1337

as amended. 1338

(C) "Employee" means an individual for whom a mortgage 1339  
broker, in addition to providing a wage or salary, pays social 1340  
security and unemployment taxes, provides workers' compensation 1341  
coverage, and withholds local, state, and federal income taxes. 1342  
"Employee" also includes any individual who acts as a loan 1343  
originator or operations manager of a registrant, but for whom the 1344  
registrant is prevented by law from making income tax 1345  
withholdings. 1346

(D) "Licensee" means any individual who has been issued a 1347  
loan originator license under sections 1322.01 to 1322.12 of the 1348  
Revised Code. 1349

(E)(1) "Loan originator" means an individual who for 1350  
compensation or gain, or in anticipation of compensation or gain, 1351  
does any of the following: 1352

(a) Takes or offers to take a residential mortgage loan 1353  
application; 1354

(b) Assists or offers to assist a buyer in obtaining or 1355  
applying to obtain a residential mortgage loan by, among other 1356  
things, advising on loan terms, including rates, fees, and other 1357  
costs; 1358

(c) Offers or negotiates terms of a residential mortgage 1359  
loan; 1360

(d) Issues or offers to issue a commitment for a residential 1361  
mortgage loan to a buyer. 1362

(2) "Loan originator" does not include any of the following: 1363

(a) An individual who performs purely administrative or 1364  
clerical tasks on behalf of a loan originator; 1365

(b) A person licensed under Chapter 4735. of the Revised 1366  
Code, or under the similar law of another state, who performs only 1367

real estate brokerage activities permitted by that license, 1368  
provided the person is not compensated by a mortgage lender, 1369  
mortgage broker, loan originator, or by any agent thereof; 1370

(c) A person solely involved in extensions of credit relating 1371  
to timeshare plans, as that term is defined in 11 U.S.C. 101 in 1372  
effect on January 1, 2009; 1373

(d) An employee of a registrant who acts solely as a loan 1374  
processor or underwriter and who does not represent to the public, 1375  
through advertising or other means of communicating, including the 1376  
use of business cards, stationery, brochures, signs, rate lists, 1377  
or other promotional items, that the employee can or will perform 1378  
any of the activities of a loan originator; 1379

(e) A mortgage loan originator licensed under sections 1380  
1321.51 to 1321.60 of the Revised Code, when acting solely under 1381  
that authority; 1382

(f) A licensed attorney who negotiates the terms of a 1383  
residential mortgage loan on behalf of a client as an ancillary 1384  
matter to the attorney's representation of the client, unless the 1385  
attorney is compensated by a lender, a mortgage broker, or another 1386  
loan originator, or by any agent thereof; 1387

(g) Any person engaged in the retail sale of manufactured 1388  
homes, mobile homes, or industrialized units if, in connection 1389  
with financing those retail sales, the person only assists the 1390  
borrower by providing or transmitting the loan application and 1391  
does not do any of the following: 1392

(i) Offer or negotiate the residential mortgage loan rates or 1393  
terms; 1394

(ii) Provide any counseling with borrowers about residential 1395  
mortgage loan rates or terms; 1396

(iii) Receive any payment or fee from any company or 1397

individual for assisting the borrower obtain or apply for 1398  
financing to purchase the manufactured home, mobile home, or 1399  
industrialized unit; 1400

(iv) Assist the borrower in completing a residential mortgage 1401  
loan application. 1402

(h) An individual employed by a nonprofit organization that 1403  
is recognized as tax exempt under 26 U.S.C. 501(c)(3) and whose 1404  
primary activity is the construction, remodeling, or 1405  
rehabilitation of homes for use by low-income families, provided 1406  
that the nonprofit organization makes no-profit mortgage loans or 1407  
mortgage loans at zero per cent interest to low-income families 1408  
and no fees accrue directly to the nonprofit organization or 1409  
individual employed by the nonprofit organization from those 1410  
mortgage loans and that the United States department of housing 1411  
and urban development does not deny this exemption. 1412

(F) "Mortgage" means any indebtedness secured by a deed of 1413  
trust, security deed, or other lien on real property. 1414

(G)(1) "Mortgage broker" means any of the following: 1415

(a) A person that holds that person out as being able to 1416  
assist a buyer in obtaining a mortgage and charges or receives 1417  
from either the buyer or lender money or other valuable 1418  
consideration readily convertible into money for providing this 1419  
assistance; 1420

(b) A person that solicits financial and mortgage information 1421  
from the public, provides that information to a mortgage broker or 1422  
a person that makes residential mortgage loans, and charges or 1423  
receives from either of them money or other valuable consideration 1424  
readily convertible into money for providing the information; 1425

(c) A person engaged in table-funding or warehouse-lending 1426  
mortgage loans that are first lien residential mortgage loans. 1427

(2) "Mortgage broker" does not include any of the following 1428  
persons only with respect to business engaged in or authorized by 1429  
the person's charter, license, authority, approval, or 1430  
certificate, or as otherwise authorized by division (G)(2)(h) of 1431  
this section: 1432

(a) A person that makes residential mortgage loans and 1433  
receives a scheduled payment on each of those mortgage loans; 1434

(b) Any entity chartered and lawfully doing business under 1435  
the authority of any law of this state, another state, or the 1436  
United States as a bank, savings bank, trust company, savings and 1437  
loan association, or credit union, or a subsidiary of any such 1438  
entity, which subsidiary is regulated by a federal banking agency 1439  
and is owned and controlled by a depository institution; 1440

(c) A consumer reporting agency that is in substantial 1441  
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 1442  
U.S.C.A. 1681a, as amended; 1443

(d) Any political subdivision, or any governmental or other 1444  
public entity, corporation, instrumentality, or agency, in or of 1445  
the United States or any state; 1446

(e) A college or university, or controlled entity of a 1447  
college or university, as those terms are defined in section 1448  
1713.05 of the Revised Code; 1449

(f) Any entity created solely for the purpose of securitizing 1450  
loans secured by an interest in real estate, provided the entity 1451  
does not service the loans. For purposes of division (G)(2)(f) of 1452  
this section, "securitizing" means the packaging and sale of 1453  
mortgage loans as a unit for sale as investment securities, but 1454  
only to the extent of those activities. 1455

(g) Any person engaged in the retail sale of manufactured 1456  
homes, mobile homes, or industrialized units if, in connection 1457  
with obtaining financing by others for those retail sales, the 1458



person only assists the borrower by providing or transmitting the 1459  
loan application and does not do any of the following: 1460

(i) Offer or negotiate the residential mortgage loan rates or 1461  
terms; 1462

(ii) Provide any counseling with borrowers about residential 1463  
mortgage loan rates or terms; 1464

(iii) Receive any payment or fee from any company or 1465  
individual for assisting the borrower obtain or apply for 1466  
financing to purchase the manufactured home, mobile home, or 1467  
industrialized unit; 1468

(iv) Assist the borrower in completing the residential 1469  
mortgage loan application. 1470

(h) A mortgage banker, provided it complies with section 1471  
1322.022 of the Revised Code and holds a valid letter of exemption 1472  
issued by the superintendent. For purposes of this section, 1473  
"mortgage banker" means any person that makes, services, buys, or 1474  
sells residential mortgage loans secured by a first lien, that 1475  
underwrites the loans, and that meets at least one of the 1476  
following criteria: 1477

(i) The person has been directly approved by the United 1478  
States department of housing and urban development as a 1479  
nonsupervised mortgagee with participation in the direct 1480  
endorsement program. Division (G)(2)(h)(i) of this section 1481  
includes a person that has been directly approved by the United 1482  
States department of housing and urban development as a 1483  
nonsupervised mortgagee with participation in the direct 1484  
endorsement program and that makes loans in excess of the 1485  
applicable loan limit set by the federal national mortgage 1486  
association, provided that the loans in all respects, except loan 1487  
amounts, comply with the underwriting and documentation 1488  
requirements of the United States department of housing and urban 1489

development. Division (G)(2)(h)(i) of this section does not 1490  
include a mortgagee approved as a loan correspondent. 1491

(ii) The person has been directly approved by the federal 1492  
national mortgage association as a seller/servicer. Division 1493  
(G)(2)(h)(ii) of this section includes a person that has been 1494  
directly approved by the federal national mortgage association as 1495  
a seller/servicer and that makes loans in excess of the applicable 1496  
loan limit set by the federal national mortgage association, 1497  
provided that the loans in all respects, except loan amounts, 1498  
comply with the underwriting and documentation requirements of the 1499  
federal national mortgage association. 1500

(iii) The person has been directly approved by the federal 1501  
home loan mortgage corporation as a seller/servicer. Division 1502  
(G)(2)(h)(iii) of this section includes a person that has been 1503  
directly approved by the federal home loan mortgage corporation as 1504  
a seller/servicer and that makes loans in excess of the applicable 1505  
loan limit set by the federal home loan mortgage corporation, 1506  
provided that the loans in all respects, except loan amounts, 1507  
comply with the underwriting and documentation requirements of the 1508  
federal home loan mortgage corporation. 1509

(iv) The person has been directly approved by the United 1510  
States department of veterans affairs as a nonsupervised automatic 1511  
lender. Division (G)(2)(h)(iv) of this section does not include a 1512  
person directly approved by the United States department of 1513  
veterans affairs as a nonsupervised lender, an agent of a 1514  
nonsupervised automatic lender, or an agent of a nonsupervised 1515  
lender. 1516

(i) A nonprofit organization that is recognized as tax exempt 1517  
under 26 U.S.C. 501(c)(3) and whose primary activity is the 1518  
construction, remodeling, or rehabilitation of homes for use by 1519  
low-income families, provided that the nonprofit organization 1520  
makes no-profit mortgage loans or mortgage loans at zero per cent 1521

interest to low-income families and no fees accrue directly to the 1522  
nonprofit organization from those mortgage loans and that the 1523  
United States department of housing and urban development does not 1524  
deny this exemption. 1525

(j) A credit union service organization, provided that the 1526  
organization utilizes services provided by registered loan 1527  
originators or that it holds a valid letter of exemption issued by 1528  
the superintendent under section 1322.023 of the Revised Code and 1529  
complies with that section. 1530

(H) "Operations manager" means the employee or owner 1531  
responsible for the everyday operations, compliance requirements, 1532  
and management of a mortgage broker business. 1533

(I) "Registered loan originator" means an individual to whom 1534  
both of the following apply: 1535

(1) The individual is a loan originator and an employee of a 1536  
depository institution, a subsidiary that is owned and controlled 1537  
by a depository institution and regulated by a federal banking 1538  
agency, or an institution regulated by the farm credit 1539  
administration. 1540

(2) The individual is registered with, and maintains a unique 1541  
identifier through, the nationwide mortgage licensing system and 1542  
registry. 1543

(J) "Registrant" means any person that has been issued a 1544  
mortgage broker certificate of registration under sections 1322.01 1545  
to 1322.12 of the Revised Code. 1546

(K) "Superintendent of financial institutions" includes the 1547  
deputy superintendent for consumer finance as provided in section 1548  
1181.21 of the Revised Code. 1549

(L) "Table-funding mortgage loan" means a residential 1550  
mortgage loan transaction in which the residential mortgage loan 1551

is initially payable to the mortgage broker, the mortgage broker 1552  
does not use the mortgage broker's own funds to fund the 1553  
transaction, and, by the terms of the mortgage or other agreement, 1554  
the mortgage is simultaneously assigned to another person. 1555

(M) "Warehouse-lending mortgage loan" means a residential 1556  
mortgage loan transaction in which the residential mortgage loan 1557  
is initially payable to the mortgage broker, the mortgage broker 1558  
uses the mortgage broker's own funds to fund the transaction, and 1559  
the mortgage is sold or assigned before the mortgage broker 1560  
receives a scheduled payment on the residential mortgage loan. 1561

(N) "Administrative or clerical tasks" means the receipt, 1562  
collection, and distribution of information common for the 1563  
processing or underwriting of a loan in the mortgage industry, and 1564  
communication with a consumer to obtain information necessary for 1565  
the processing or underwriting of a residential mortgage loan. 1566

(O) "Appraisal company" means a sole proprietorship, 1567  
partnership, corporation, limited liability company, or any other 1568  
business entity or association, that employs or retains the 1569  
services of a person licensed or certified under Chapter 4763. of 1570  
the Revised Code for purposes of performing residential real 1571  
estate appraisals for mortgage loans. 1572

(P) "Depository institution" has the same meaning as in 1573  
section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 1574  
U.S.C. 1813, and includes any credit union. 1575

(Q) "Federal banking agency" means the board of governors of 1576  
the federal reserve system, the comptroller of the currency, the 1577  
director of the office of thrift supervision, the national credit 1578  
union administration, and the federal deposit insurance 1579  
corporation. 1580

(R) "Immediate family" means an individual's spouse, child, 1581  
stepchild, parent, stepparent, grandparent, grandchild, brother, 1582

sister, parent-in-law, brother-in-law, or sister-in-law. 1583

(S) "Individual" means a natural person. 1584

(T) "Loan processor or underwriter" means an individual who 1585  
performs clerical or support duties at the direction of and 1586  
subject to the supervision and instruction of a licensed loan 1587  
originator or registered loan originator. For purposes of this 1588  
division, to "perform" clerical or support duties ~~includes means~~ 1589  
to do all of the following activities: 1590

(1) ~~The receipt~~ Receiving, collection ~~collecting,~~ 1591  
~~distribution~~ distributing, and ~~analysis of~~ analyzing information 1592  
common for the processing or underwriting of a residential 1593  
mortgage loan; 1594

(2) Communicating with a buyer to obtain the information 1595  
necessary for the processing or underwriting of a loan, to the 1596  
extent the communication does not include offering or negotiating 1597  
loan rates or terms or counseling buyers about residential 1598  
mortgage loan rates or terms. 1599

(U) "Nationwide mortgage licensing system and registry" means 1600  
a mortgage licensing system developed and maintained by the 1601  
conference of state bank supervisors and the American association 1602  
of residential mortgage regulators, or their successor entities, 1603  
for the licensing and registration of loan originators, or any 1604  
system established by the secretary of housing and urban 1605  
development pursuant to the "Secure and Fair Enforcement for 1606  
Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101. 1607

(V) "Nontraditional mortgage product" means any mortgage 1608  
product other than a thirty-year fixed rate mortgage. 1609

(W) "Real estate brokerage activity" means any activity that 1610  
involves offering or providing real estate brokerage services to 1611  
the public, including all of the following: 1612

(1) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(2) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing for any such transaction;

(3) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing for any such transaction;

(4) Engaging in any activity for which a person engaged in that activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law;

(5) Offering to engage in any activity, or to act in any capacity, described in division (W) of this section.

(X) "Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage or other equivalent consensual security interest on a dwelling or on residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this division, "dwelling" has the same meaning as in section 103 of the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C 1602.

(Y) "State," in the context of referring to states in addition to Ohio, means any state of the United States, the district of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the trust territory of the Pacific islands, the virgin islands, and the northern Mariana islands.

(Z) "Unique identifier" means a number or other identifier that permanently identifies a loan originator and is assigned by protocols established by the nationwide mortgage licensing system and registry or federal banking agencies to facilitate electronic tracking of loan originators and uniform identification of, and

public access to, the employment history of and the publicly 1644  
adjudicated disciplinary and enforcement actions against loan 1645  
originators. 1646

**Sec. 1322.02.** (A)(1) No person, on the person's own behalf or 1647  
on behalf of any other person, shall act as a mortgage broker 1648  
without first having obtained a certificate of registration from 1649  
the superintendent of financial institutions for every office to 1650  
be maintained by the person for the transaction of business as a 1651  
mortgage broker in this state. A registrant shall maintain an 1652  
office location in this state for the transaction of business as a 1653  
mortgage broker in this state. 1654

(2) No person shall act or hold that person's self out as a 1655  
mortgage broker under the authority or name of a registrant or 1656  
person exempt from sections 1322.01 to 1322.12 of the Revised Code 1657  
without first having obtained a certificate of registration from 1658  
the superintendent for every office to be maintained by the person 1659  
for the transaction of business as a mortgage broker in this 1660  
state. 1661

(B)(1) No individual shall act as a loan originator without 1662  
first having obtained a license from the superintendent. A loan 1663  
originator shall be employed by or associated with a mortgage 1664  
broker or any person or entity listed in division (G)(2) of 1665  
section 1322.01 of the Revised Code, but shall not be employed by 1666  
or associated with more than one mortgage broker or person or 1667  
entity at any one time. 1668

(2) An individual acting under the individual's authority as 1669  
a registered loan originator shall not be required to be licensed 1670  
under division (B)(1) of this section. 1671

(C)(1) ~~Each licensee~~ No person acting as a mortgage broker or 1672  
loan originator shall fail to register with, and maintain a valid 1673  
unique identifier issued by, the nationwide mortgage licensing 1674

system and registry. 1675

(2) No person shall use a ~~licensee's~~ mortgage broker's or 1676  
loan originator's unique identifier for any purpose other than as 1677  
set forth in the "Secure and Fair Enforcement for Mortgage 1678  
Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101. 1679

**Sec. 1322.022.** (A) A mortgage banker seeking exemption from 1680  
registration pursuant to division (G)(2)(h) of section 1322.01 of 1681  
the Revised Code shall submit an application to the superintendent 1682  
of financial institutions along with a nonrefundable fee of three 1683  
hundred fifty dollars for each location of an office to be 1684  
maintained by the mortgage banker. The application shall be in a 1685  
form prescribed by the superintendent and shall include all of the 1686  
following: 1687

(1) The mortgage banker's business name and state of 1688  
incorporation or business registration; 1689

(2) The names of the owners, officers, or partners having 1690  
control of the business; 1691

(3) An attestation to all of the following: 1692

(a) That the mortgage banker and its owners, officers, or 1693  
partners identified in division (A)(2) of this section have not 1694  
had a mortgage banker license, mortgage broker certificate of 1695  
registration, or loan originator license, or any comparable 1696  
authority, revoked in any governmental jurisdiction; 1697

(b) That the mortgage banker and its owners, officers, or 1698  
partners identified in division (A)(2) of this section have not 1699  
been convicted of, or pleaded guilty or nolo contendere to, any of 1700  
the following in a domestic, foreign, or military court: 1701

(i) During the seven-year period immediately preceding the 1702  
date of application for exemption, ~~any felony or~~ a misdemeanor 1703  
involving theft or any felony; 1704



(ii) At any time prior to the date the application for exemption is approved, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering. 1705  
1706  
1707

(c) That, with respect to financing residential mortgage loans, the mortgage banker conducts business with residents of this state, or secures its loans with property located in this state, under authority of an approval described in division (G)(2)(h) of section 1322.01 of the Revised Code. 1708  
1709  
1710  
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1712

(4) The names of all loan originators or licensees under the mortgage banker's control and direction; 1713  
1714

(5) An acknowledgment of understanding that the mortgage banker is subject to the regulatory authority of the division of financial institutions as provided in this section; 1715  
1716  
1717

(6) Any further reasonable information that the superintendent may require. 1718  
1719

(B)(1) If the superintendent determines that the mortgage banker honestly made the attestation required under division (A)(3) of this section and otherwise qualifies for exemption, the superintendent shall issue a letter of exemption. Additional certified copies of a letter of exemption shall be provided upon request and the payment of seventy-five dollars per copy. 1720  
1721  
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(2) If the superintendent determines that the mortgage banker does not qualify for exemption, the superintendent shall issue a notice of denial, and the mortgage banker may request a hearing in accordance with Chapter 119. of the Revised Code. 1726  
1727  
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1729

(C) All of the following conditions apply to any mortgage banker holding a valid letter of exemption: 1730  
1731

(1) The mortgage banker shall be subject to examination in the same manner as a registrant with respect to the conduct of the mortgage banker's loan originators. In conducting any out-of-state 1732  
1733  
1734

examination, a mortgage banker shall be responsible for paying the 1735  
costs of the division in the same manner as a registrant. 1736

(2) The mortgage banker shall have an affirmative duty to 1737  
supervise the conduct of its loan originators, and to cooperate 1738  
with investigations by the division with respect to that conduct, 1739  
in the same manner as is required of registrants. 1740

(3) The mortgage banker shall keep and maintain records of 1741  
all transactions relating to the conduct of its loan originators 1742  
in the same manner as is required of registrants. 1743

(4) The mortgage banker may provide the surety bond for its 1744  
licensees in the same manner as is permitted for registrants. 1745

(D) A letter of exemption expires annually on the 1746  
thirty-first day of December and may be renewed on or before that 1747  
date by submitting an application that meets the requirements of 1748  
division (A) of this section and a nonrefundable renewal fee of 1749  
three hundred fifty dollars for each location of an office to be 1750  
maintained by the mortgage banker. 1751

(E) The superintendent may issue a notice to revoke or 1752  
suspend a letter of exemption if the superintendent finds that the 1753  
letter was obtained through a false or fraudulent representation 1754  
of a material fact, or the omission of a material fact, required 1755  
by law, or that a condition for exemption is no longer being met. 1756  
Prior to issuing an order of revocation or suspension, the 1757  
mortgage banker shall be given an opportunity for a hearing in 1758  
accordance with Chapter 119. of the Revised Code. 1759

(F) All information obtained by the division pursuant to an 1760  
examination or investigation under this section shall be subject 1761  
to the confidentiality requirements set forth in section 1322.061 1762  
of the Revised Code. 1763

(G) All money collected under this section shall be deposited 1764  
into the state treasury to the credit of the consumer finance fund 1765

created in section 1321.21 of the Revised Code. 1766

(H) A mortgage banker that holds a valid letter of exemption, 1767  
and any licensee employed by the mortgage banker, shall not be 1768  
required to comply with section 1322.062 of the Revised Code with 1769  
respect to any transaction covered under the authority of an 1770  
approval described in division (G)(2)(h) of section 1322.01 of the 1771  
Revised Code. Compliance shall be required, however, with respect 1772  
to transactions not covered under the authority of an approval 1773  
described in that division. 1774

**Sec. 1322.023.** (A) A credit union service organization 1775  
seeking exemption from registration pursuant to division (G)(2)(j) 1776  
of section 1322.01 of the Revised Code shall submit an application 1777  
to the superintendent of financial institutions along with a 1778  
nonrefundable fee of three hundred fifty dollars for each location 1779  
of an office to be maintained by the organization. The application 1780  
shall be in a form prescribed by the superintendent and shall 1781  
include all of the following: 1782

(1) The organization's business name and state of 1783  
incorporation; 1784

(2) The names of the owners, officers, or partners having 1785  
control of the organization; 1786

(3) An attestation to all of the following: 1787

(a) That the organization and its owners, officers, or 1788  
partners identified in division (A)(2) of this section have not 1789  
had a mortgage broker certificate of registration or loan 1790  
originator license, or any comparable authority, revoked in any 1791  
governmental jurisdiction; 1792

(b) That the organization and its owners, officers, or 1793  
partners identified in division (A)(2) of this section have not 1794  
been convicted of, or pleaded guilty or nolo contendere to, any of 1795

the following in a domestic, foreign, or military court:	1796
(i) During the seven-year period immediately preceding the date of application for exemption, <del>any felony or</del> a misdemeanor involving theft <u>or any felony</u> ;	1797 1798 1799
(ii) At any time prior to the date the application for exemption is approved, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering.	1800 1801 1802
(c) That, with respect to financing residential mortgage loans, the organization conducts business with residents of this state or secures its loans with property located in this state.	1803 1804 1805
(4) The names of all loan originators or licensees under the organization's control and direction;	1806 1807
(5) An acknowledgment of understanding that the organization is subject to the regulatory authority of the division of financial institutions;	1808 1809 1810
(6) Any further information that the superintendent may require.	1811 1812
(B)(1) If the superintendent determines that the credit union service organization honestly made the attestation required under division (A)(3) of this section and otherwise qualifies for exemption, the superintendent shall issue a letter of exemption. Additional certified copies of a letter of exemption shall be provided upon request and the payment of seventy-five dollars per copy.	1813 1814 1815 1816 1817 1818 1819
(2) If the superintendent determines that the organization does not qualify for exemption, the superintendent shall issue a notice of denial, and the organization may request a hearing in accordance with Chapter 119. of the Revised Code.	1820 1821 1822 1823
(C) All of the following conditions apply to any credit union service organization holding a valid letter of exemption:	1824 1825

(1) The organization shall be subject to examination in the same manner as a registrant with respect to the conduct of the organization's loan originators. In conducting any out-of-state examination, the organization shall be responsible for paying the costs of the division in the same manner as a registrant.

(2) The organization shall have an affirmative duty to supervise the conduct of its loan originators, and to cooperate with investigations by the division with respect to that conduct, in the same manner as is required of registrants.

(3) The organization shall keep and maintain records of all transactions relating to the conduct of its loan originators in the same manner as is required of registrants.

(4) The organization may provide the surety bond for its licensees in the same manner as is permitted for registrants.

(D) A letter of exemption expires annually on the thirty-first day of December and may be renewed on or before that date by submitting an application that meets the requirements of division (A) of this section and a nonrefundable renewal fee of three hundred fifty dollars for each location of an office to be maintained by the credit union service organization.

(E) The superintendent may issue a notice to revoke or suspend a letter of exemption if the superintendent finds that the letter was obtained through a false or fraudulent representation of a material fact, or the omission of a material fact, required by law, or that a condition for exemption is no longer being met. Prior to issuing an order of revocation or suspension, the credit union service organization shall be given an opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

(F) All information obtained by the division pursuant to an examination or investigation under this section shall be subject to the confidentiality requirements set forth in section 1322.061

of the Revised Code. 1857

(G) All money collected under this section shall be deposited 1858  
into the state treasury to the credit of the consumer finance fund 1859  
created in section 1321.21 of the Revised Code. 1860

**Sec. 1322.03.** (A) An application for a certificate of 1861  
registration as a mortgage broker shall be in writing, under oath, 1862  
and in the form prescribed by the superintendent of financial 1863  
institutions. The application shall be accompanied by a 1864  
nonrefundable application fee of five hundred dollars for each 1865  
location of an office to be maintained by the applicant in 1866  
accordance with division (A) of section 1322.02 of the Revised 1867  
Code and any additional fee required by the nationwide mortgage 1868  
licensing system and registry. The application shall provide all 1869  
of the following: 1870

(1) The location or locations where the business is to be 1871  
transacted and whether any location is a residence. If any 1872  
location where the business is to be transacted is a residence, 1873  
the superintendent may require that the application be accompanied 1874  
by a copy of a zoning permit authorizing the use of the residence 1875  
for commercial purposes, or by a written opinion or other document 1876  
issued by the county or political subdivision where the residence 1877  
is located certifying that the use of the residence to transact 1878  
business as a mortgage broker is not prohibited by the county or 1879  
political subdivision. 1880

(2)(a) In the case of a sole proprietor, the name and address 1881  
of the sole proprietor; 1882

(b) In the case of a partnership, the name and address of 1883  
each partner; 1884

(c) In the case of a corporation, the name and address of 1885  
each shareholder owning five per cent or more of the corporation; 1886

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

(3) Each applicant shall designate an employee or owner of  
the applicant as the applicant's operations manager. While acting  
as the operations manager, the employee or owner shall be licensed  
as a loan originator under sections 1322.01 to 1322.12 of the  
Revised Code and shall not be employed by any other mortgage  
broker.

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

(5) Evidence that the person designated on the application  
pursuant to division (A)(3) of this section has successfully  
completed the pre-licensing instruction requirements set forth in  
section 1322.031 of the Revised Code;

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

(7) In the case of a foreign business entity, evidence that  
it maintains a license or registration pursuant to Chapter 1703.,  
1705., 1775., 1776., 1777., 1782., or 1783. of the Revised Code to  
transact business in this state;

(8) Evidence that the applicant's operations manager has

successfully completed the written test required under division 1918  
(A) of section 1322.051 of the Revised Code; 1919

(9) Any further information that the superintendent requires. 1920

(B) Upon the filing of the application and payment of the 1921  
nonrefundable application fee and any fee required by the 1922  
nationwide mortgage licensing system and registry, the 1923  
superintendent of financial institutions shall investigate the 1924  
applicant, and any individual whose identity is required to be 1925  
disclosed in the application, as set forth in division (B) of this 1926  
section. 1927

(1)(a) Notwithstanding division (K) of section 121.08 of the 1928  
Revised Code, the superintendent shall obtain a criminal history 1929  
records check and, as part of that records check, request that 1930  
criminal record information from the federal bureau of 1931  
investigation be obtained. To fulfill this requirement, the 1932  
superintendent shall do either of the following: 1933

(i) Request the superintendent of the bureau of criminal 1934  
identification and investigation, or a vendor approved by the 1935  
bureau, to conduct a criminal records check based on the 1936  
applicant's fingerprints or, if the fingerprints are unreadable, 1937  
based on the applicant's social security number, in accordance 1938  
with division (A)(12) of section 109.572 of the Revised Code; 1939

(ii) Authorize the nationwide mortgage licensing system and 1940  
registry to request a criminal history background check. 1941

(b) Any fee required under division (C)(3) of section 109.572 1942  
of the Revised Code or by the nationwide mortgage licensing system 1943  
and registry shall be paid by the applicant. 1944

(2) The superintendent shall conduct a civil records check. 1945

(3) If, in order to issue a certificate of registration to an 1946  
applicant, additional investigation by the superintendent outside 1947



this state is necessary, the superintendent may require the 1948  
applicant to advance sufficient funds to pay the actual expenses 1949  
of the investigation, if it appears that these expenses will 1950  
exceed five hundred dollars. The superintendent shall provide the 1951  
applicant with an itemized statement of the actual expenses that 1952  
the applicant is required to pay. 1953

(C) The superintendent shall pay all funds advanced and 1954  
application and renewal fees and penalties the superintendent 1955  
receives pursuant to this section and section 1322.04 of the 1956  
Revised Code to the treasurer of state to the credit of the 1957  
consumer finance fund created in section 1321.21 of the Revised 1958  
Code. 1959

(D) If an application for a mortgage broker certificate of 1960  
registration does not contain all of the information required 1961  
under division (A) of this section, and if that information is not 1962  
submitted to the superintendent or to the nationwide mortgage 1963  
licensing system and registry within ninety days after the 1964  
superintendent or the nationwide mortgage licensing system and 1965  
registry requests the information in writing, including by 1966  
electronic transmission or facsimile, the superintendent may 1967  
consider the application withdrawn. 1968

(E) A mortgage broker certificate of registration and the 1969  
authority granted under that certificate is not transferable or 1970  
assignable and cannot be franchised by contract or any other 1971  
means. 1972

(F) The registration requirements of this chapter apply to 1973  
any person acting as a mortgage broker, and no person is exempt 1974  
from the requirements of this chapter on the basis of prior work 1975  
or employment as a mortgage broker. 1976

(G) The superintendent may establish relationships or enter 1977  
into contracts with the nationwide mortgage licensing system and 1978

registry, or any entities designated by it, to collect and 1979  
maintain records and process transaction fees or other fees 1980  
related to mortgage broker certificates of registration or the 1981  
persons associated with a mortgage broker. 1982

**Sec. 1322.031.** (A) An application for a license as a loan 1983  
originator shall be in writing, under oath, and in the form 1984  
prescribed by the superintendent of financial institutions. The 1985  
application shall be accompanied by a nonrefundable application 1986  
fee of one hundred fifty dollars and any additional fee required 1987  
by the nationwide mortgage licensing system and registry. 1988

(B)(1) The application shall provide evidence, acceptable to 1989  
the superintendent, that the applicant has successfully completed 1990  
at least twenty-four hours of pre-licensing instruction consisting 1991  
of all of the following: 1992

(a) Twenty hours of instruction in a course or program of 1993  
study reviewed and approved by the nationwide mortgage licensing 1994  
system and registry; 1995

(b) Four hours of instruction in a course or program of study 1996  
reviewed and approved by the superintendent concerning state 1997  
lending laws and the Ohio consumer sales practices act, Chapter 1998  
1345. of the Revised Code, as it applies to registrants and 1999  
licensees. 2000

(2) Notwithstanding division (B)(1) of this section, until 2001  
the nationwide mortgage licensing system and registry implements a 2002  
review and approval program, the application shall provide 2003  
evidence, as determined by the superintendent, that the applicant 2004  
has successfully completed at least twenty-four hours of 2005  
instruction in a course or program of study approved by the 2006  
superintendent that consists of at least all of the following: 2007

(a) Four hours of instruction concerning state and federal 2008

mortgage lending laws, which shall include no less than two hours on this chapter; 2009  
2010

(b) Four hours of instruction concerning the Ohio consumer sales practices act, Chapter 1345. of the Revised Code, as it applies to registrants and licensees; 2011  
2012  
2013

(c) Four hours of instruction concerning the loan application process; 2014  
2015

(d) Two hours of instruction concerning the underwriting process; 2016  
2017

(e) Two hours of instruction concerning the secondary market for mortgage loans; 2018  
2019

(f) Four hours of instruction concerning the loan closing process; 2020  
2021

(g) Two hours of instruction covering basic mortgage financing concepts and terms; 2022  
2023

(h) Two hours of instruction concerning the ethical responsibilities of a registrant and a licensee, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code. 2024  
2025  
2026  
2027  
2028

(3) For purposes of division (B)(1)(a) of this section, the review and approval of a course or program of study includes the review and approval of the provider of the course or program of study. 2029  
2030  
2031  
2032

(4) If an applicant held a valid loan originator license issued by this state at any time during the immediately preceding five-year period, the applicant shall not be required to complete any additional pre-licensing instruction. For this purpose, any time during which the individual is a registered loan originator shall not be taken into account. 2033  
2034  
2035  
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2037  
2038

(5) A person having successfully completed the pre-licensing education requirement reviewed and approved by the nationwide mortgage licensing system and registry for any state within the previous five years shall be granted credit toward completion of the pre-licensing education requirement of this state.

(C) In addition to the information required under division (B) of this section, the application shall provide both of the following:

(1) Evidence that the applicant passed a written test that meets the requirements described in division (B) of section 1322.051 of the Revised Code;

(2) Any further information that the superintendent requires.

(D) Upon the filing of the application and payment of the application fee and any fee required by the nationwide mortgage licensing system and registry, the superintendent of financial institutions shall investigate the applicant as set forth in division (D) of this section.

(1)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal history records check and, as part of the records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number, in accordance with division (A)(12) of section 109.572 of the Revised Code;

(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check.

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

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

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

(E)(1) In connection with applying for a loan originator license, the applicant shall furnish to the nationwide mortgage licensing system and registry the following information concerning the applicant's identity:

(a) The applicant's fingerprints for submission to the federal bureau of investigation, and any other governmental agency or entity authorized to receive such information, for purposes of a state, national, and international criminal history background check;

(b) Personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, along with authorization for the superintendent and the nationwide mortgage licensing system and registry to obtain the following:

(i) An independent credit report from a consumer reporting agency;

(ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(2) In order to effectuate the purposes of divisions

(E)(1)(a) and (E)(1)(b)(ii) of this section, the superintendent 2100  
may use the conference of state bank supervisors, or a wholly 2101  
owned subsidiary, as a channeling agent for requesting information 2102  
from and distributing information to the United States department 2103  
of justice or any other governmental agency. The superintendent 2104  
may also use the nationwide mortgage licensing system and registry 2105  
as a channeling agent for requesting information from and 2106  
distributing information to any source related to matters subject 2107  
to those divisions of this section. 2108

(F) The superintendent shall pay all funds advanced and 2109  
application and renewal fees and penalties the superintendent 2110  
receives pursuant to this section and section 1322.041 of the 2111  
Revised Code to the treasurer of state to the credit of the 2112  
consumer finance fund created in section 1321.21 of the Revised 2113  
Code. 2114

(G) If an application for a loan originator license does not 2115  
contain all of the information required under this section, and if 2116  
that information is not submitted to the superintendent or to the 2117  
nationwide mortgage licensing system and registry within ninety 2118  
days after the superintendent or the nationwide mortgage licensing 2119  
system and registry requests the information in writing, including 2120  
by electronic transmission or facsimile, the superintendent may 2121  
consider the application withdrawn. 2122

(H)(1) The business of a loan originator shall principally be 2123  
transacted at an office of the mortgage broker with whom the 2124  
licensee is employed or associated, which office is registered in 2125  
accordance with division (A) of section 1322.02 of the Revised 2126  
Code. Each original loan originator license shall be deposited 2127  
with and maintained by the mortgage broker at the mortgage 2128  
broker's main office. A copy of the license shall be maintained 2129  
and displayed at the office where the loan originator principally 2130  
transacts business. 2131

(2) If a loan originator's employment or association is 2132  
terminated for any reason, the mortgage broker shall return the 2133  
original loan originator license to the superintendent within five 2134  
business days after the termination. The licensee may request the 2135  
transfer of the license to another mortgage broker by submitting a 2136  
transfer application, along with a fifteen dollar fee and any fee 2137  
required by the national mortgage licensing system and registry, 2138  
to the superintendent or may request the superintendent in writing 2139  
to hold the license in escrow. Any licensee whose license is held 2140  
in escrow shall cease activity as a loan originator. A licensee 2141  
whose license is held in escrow shall be required to apply for 2142  
renewal annually and to comply with the annual continuing 2143  
education requirement. 2144

(3) A mortgage broker may employ or be associated with a loan 2145  
originator on a temporary basis pending the transfer of the loan 2146  
originator's license to the mortgage broker, if the mortgage 2147  
broker receives written confirmation from the superintendent that 2148  
the loan originator is licensed under sections 1322.01 to 1322.12 2149  
of the Revised Code. 2150

(4) Notwithstanding divisions (H)(1) to (3) of this section, 2151  
if a licensee is employed by or associated with a person or entity 2152  
listed in division (G)(2) of section 1322.01 of the Revised Code, 2153  
all of the following apply: 2154

(a) The licensee shall maintain and display the original loan 2155  
originator license at the office where the licensee principally 2156  
transacts business; 2157

(b) If the loan originator's employment or association is 2158  
terminated, the loan originator shall return the original loan 2159  
originator license to the superintendent within five business days 2160  
after termination. The licensee may request the transfer of the 2161  
license to a mortgage broker or another person or entity listed in 2162  
division (G)(2) of section 1322.01 of the Revised Code by 2163

submitting a transfer application, along with a fifteen-dollar fee 2164  
and any fee required by the national mortgage licensing system and 2165  
registry, to the superintendent or may request the superintendent 2166  
in writing to hold the license in escrow. A licensee whose license 2167  
is held in escrow shall cease activity as a loan originator. A 2168  
licensee whose license is held in escrow shall be required to 2169  
apply for renewal annually and to comply with the annual 2170  
continuing education requirement. 2171

(c) The licensee may seek to be employed or associated with a 2172  
mortgage broker or person or entity listed in division (G)(2) of 2173  
section 1322.01 of the Revised Code if the mortgage broker or 2174  
person or entity receives written confirmation from the 2175  
superintendent that the loan originator is licensed under sections 2176  
1322.01 to 1322.12 of the Revised Code. 2177

(I) The superintendent may establish relationships or enter 2178  
into contracts with the nationwide mortgage licensing system and 2179  
registry, or any entities designated by it, to collect and 2180  
maintain records and process transaction fees or other fees 2181  
related to loan originator licenses or the persons associated with 2182  
a licensee. 2183

(J) A loan originator license, or the authority granted under 2184  
that license, is not assignable and cannot be franchised by 2185  
contract or any other means. 2186

**Sec. 1322.04.** (A) Upon the conclusion of the investigation 2187  
required under division (B) of section 1322.03 of the Revised 2188  
Code, the superintendent of financial institutions shall issue a 2189  
certificate of registration to the applicant if the superintendent 2190  
finds that the following conditions are met: 2191

(1) The application is accompanied by the application fee and 2192  
any fee required by the nationwide mortgage licensing system and 2193  
registry. 2194



(a) If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the applicant by certified mail, return receipt requested, that the application will be withdrawn unless the applicant, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the applicant does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the application shall be withdrawn.

(b) If a check or other draft instrument is returned to the superintendent for insufficient funds after the certificate of registration has been issued, the superintendent shall notify the registrant by certified mail, return receipt requested, that the certificate of registration issued in reliance on the check or other draft instrument will be canceled unless the registrant, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the registrant does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the certificate of registration shall be canceled immediately without a hearing, and the registrant shall cease activity as a mortgage broker.

(2) If the application is for a location that is a residence, evidence that the use of the residence to transact business as a mortgage broker is not prohibited.

(3) The person designated on the application pursuant to division (A)(3) of section 1322.03 of the Revised Code meets the experience requirements provided in division (A)(4) of section 1322.03 of the Revised Code and the education requirements set

forth in division (A)(5) of section 1322.03 of the Revised Code. 2227

(4) The applicant maintains all necessary filings and 2228  
approvals required by the secretary of state. 2229

(5) The applicant complies with the surety bond requirements 2230  
of section 1322.05 of the Revised Code. 2231

(6) The applicant complies with sections 1322.01 to 1322.12 2232  
of the Revised Code and the rules adopted thereunder. 2233

(7) Neither the applicant nor any person whose identity is 2234  
required to be disclosed on an application for a mortgage broker 2235  
certificate of registration has had a mortgage broker certificate 2236  
of registration or loan originator license, or any comparable 2237  
authority, revoked in any governmental jurisdiction or has pleaded 2238  
guilty or nolo contendere to or been convicted of any of the 2239  
following in a domestic, foreign, or military court: 2240

(a) During the seven-year period immediately preceding the 2241  
date of application for the certificate of registration, ~~any~~ 2242  
~~felony or~~ a misdemeanor involving theft or any felony; 2243

(b) At any time prior to the date the application for the 2244  
certificate of registration is approved, a felony involving an act 2245  
of fraud, dishonesty, a breach of trust, theft, or money 2246  
laundering. 2247

(8) Based on the totality of the circumstances and 2248  
information submitted in the application, the applicant has proven 2249  
to the superintendent, by a preponderance of the evidence, that 2250  
the applicant is of good business repute, appears qualified to act 2251  
as a mortgage broker, has fully complied with sections 1322.01 to 2252  
1322.12 of the Revised Code and the rules adopted thereunder, and 2253  
meets all of the conditions for issuing a mortgage broker 2254  
certificate of registration. 2255

(9) The applicant's operations manager successfully completed 2256

the examination required under division (A) of section 1322.051 of 2257  
the Revised Code. 2258

(10) The applicant's financial responsibility, experience, 2259  
character, and general fitness command the confidence of the 2260  
public and warrant the belief that the business will be operated 2261  
honestly and fairly in compliance with the purposes of sections 2262  
1322.01 to 1322.12 of the Revised Code and the rules adopted 2263  
thereunder. The superintendent shall not use a credit score as the 2264  
sole basis for registration denial. 2265

(B) For purposes of determining whether an applicant that is 2266  
a partnership, corporation, or other business entity or 2267  
association has met the conditions set forth in divisions (A)(7), 2268  
(A)(8), and (A)(10) of this section, the superintendent shall 2269  
determine which partners, shareholders, or persons named in the 2270  
application pursuant to division (A)(2) of section 1322.03 of the 2271  
Revised Code must meet the conditions set forth in divisions 2272  
(A)(7), (A)(8), and (A)(10) of this section. This determination 2273  
shall be based on the extent and nature of the partner's, 2274  
shareholder's, or person's ownership interest in the partnership, 2275  
corporation, or other business entity or association that is the 2276  
applicant and on whether the person is in a position to direct, 2277  
control, or adversely influence the operations of the applicant. 2278

(C) The certificate of registration issued pursuant to 2279  
division (A) of this section may be renewed annually on or before 2280  
the thirty-first day of December if the superintendent finds that 2281  
all of the following conditions are met: 2282

(1) The renewal application is accompanied by a nonrefundable 2283  
renewal fee of five hundred dollars for each location of an office 2284  
to be maintained by the applicant in accordance with division (A) 2285  
of section 1322.02 of the Revised Code and any fee required by the 2286  
nationwide mortgage licensing system and registry. If a check or 2287  
other draft instrument is returned to the superintendent for 2288

insufficient funds, the superintendent shall notify the registrant 2289  
by certified mail, return receipt requested, that the certificate 2290  
of registration renewed in reliance on the check or other draft 2291  
instrument will be canceled unless the registrant, within thirty 2292  
days after receipt of the notice, submits the renewal fee and a 2293  
one-hundred-dollar penalty to the superintendent. If the 2294  
registrant does not submit the renewal fee and penalty within that 2295  
time period, or if any check or other draft instrument used to pay 2296  
the fee or penalty is returned to the superintendent for 2297  
insufficient funds, the certificate of registration shall be 2298  
canceled immediately without a hearing and the registrant shall 2299  
cease activity as a mortgage broker. 2300

(2) The operations manager designated under division (A)(3) 2301  
of section 1322.03 of the Revised Code has completed, at least 2302  
eight hours of continuing education as required under section 2303  
1322.052 of the Revised Code. 2304

(3) The applicant meets the conditions set forth in divisions 2305  
(A)(2) to (10) of this section. 2306

(4) The applicant's mortgage broker certificate of 2307  
registration is not subject to an order of suspension or an unpaid 2308  
and past due fine imposed by the superintendent. 2309

(D)(1) Subject to division (D)(2) of this section, if a 2310  
renewal fee or additional fee required by the nationwide mortgage 2311  
licensing system and registry is received by the superintendent 2312  
after the thirty-first day of December, the mortgage broker 2313  
certificate of registration shall not be considered renewed, and 2314  
the applicant shall cease activity as a mortgage broker. 2315

(2) Division (D)(1) of this section shall not apply if the 2316  
applicant, no later than the thirty-first day of January, submits 2317  
the renewal fee or additional fee and a one-hundred-dollar penalty 2318  
to the superintendent. 2319

(E) If the person designated as the operations manager 2320  
pursuant to division (A)(3) of section 1322.03 of the Revised Code 2321  
is no longer the operations manager, the registrant shall do all 2322  
of the following: 2323

(1) Within ninety days after the departure of the designated 2324  
operations manager, designate another person as the operations 2325  
manager; 2326

(2) Within ten days after the designation described in 2327  
division (E)(1) of this section, notify the superintendent in 2328  
writing of the designation; 2329

(3) Submit any additional information that the superintendent 2330  
requires to establish that the newly designated operations manager 2331  
complies with the requirements set forth in section 1322.03 of the 2332  
Revised Code. 2333

(F) The registrant shall cease operations if it is without an 2334  
operations manager approved by the superintendent for more than 2335  
one hundred eighty days unless otherwise authorized in writing by 2336  
the superintendent due to exigent circumstances. 2337

(G) Mortgage broker certificates of registration issued on or 2338  
after May 1, 2010, annually expire on the thirty-first day of 2339  
December. 2340

**Sec. 1322.041.** (A) Upon the conclusion of the investigation 2341  
required under division (D) of section 1322.031 of the Revised 2342  
Code, the superintendent of financial institutions shall issue a 2343  
loan originator license to the applicant if the superintendent 2344  
finds that the following conditions are met: 2345

(1) The application is accompanied by the application fee and 2346  
any fee required by the nationwide mortgage licensing system and 2347  
registry. 2348

(a) If a check or other draft instrument is returned to the 2349

superintendent for insufficient funds, the superintendent shall 2350  
notify the applicant by certified mail, return receipt requested, 2351  
that the application will be withdrawn unless the applicant, 2352  
within thirty days after receipt of the notice, submits the 2353  
application fee and a one-hundred-dollar penalty to the 2354  
superintendent. If the applicant does not submit the application 2355  
fee and penalty within that time period, or if any check or other 2356  
draft instrument used to pay the fee or penalty is returned to the 2357  
superintendent for insufficient funds, the application shall be 2358  
withdrawn. 2359

(b) If a check or other draft instrument is returned to the 2360  
superintendent for insufficient funds after the license has been 2361  
issued, the superintendent shall notify the licensee by certified 2362  
mail, return receipt requested, that the license issued in 2363  
reliance on the check or other draft instrument will be canceled 2364  
unless the licensee, within thirty days after receipt of the 2365  
notice, submits the application fee and a one-hundred-dollar 2366  
penalty to the superintendent. If the licensee does not submit the 2367  
application fee and penalty within that time period, or if any 2368  
check or other draft instrument used to pay the fee or penalty is 2369  
returned to the superintendent for insufficient funds, the license 2370  
shall be canceled immediately without a hearing, and the licensee 2371  
shall cease activity as a loan originator. 2372

(2) The applicant complies with sections 1322.01 to 1322.12 2373  
of the Revised Code and the rules adopted thereunder. 2374

~~(3)(a) During the seven-year period immediately preceding the~~ 2375  
~~date of application for the license, the~~ The applicant has not 2376  
been convicted of or pleaded guilty or nolo contendere to any 2377  
~~felony or a misdemeanor involving theft~~ of the following in a 2378  
domestic, foreign, or military court. 2379

(a) During the seven-year period immediately preceding the 2380  
date of application for the license, a misdemeanor involving theft 2381

or any felony; 2382

(b) At any time prior to the date the application for the 2383  
license is approved, ~~the applicant has not been convicted of or~~ 2384  
~~pleaded guilty to~~ a felony involving an act of fraud, dishonesty, 2385  
a breach of trust, theft, or money laundering ~~in a domestic,~~ 2386  
~~foreign, or military court.~~ 2387

(4) Based on the totality of the circumstances and 2388  
information submitted in the application, the applicant has proven 2389  
to the superintendent, by a preponderance of the evidence, that 2390  
the applicant is of good business repute, appears qualified to act 2391  
as a loan originator, has fully complied with sections 1322.01 to 2392  
1322.12 of the Revised Code and the rules adopted thereunder, and 2393  
meets all of the conditions for issuing a loan originator license. 2394

(5) The applicant successfully completed the written test 2395  
required under division (B) of section 1322.051 of the Revised 2396  
Code and completed the prelicensing instruction set forth in 2397  
division (B) of section 1322.031 of the Revised Code. 2398

(6) The applicant's financial responsibility, character, and 2399  
general fitness command the confidence of the public and warrant 2400  
the belief that the business will be operated honestly and fairly 2401  
in compliance with the purposes of sections 1322.01 to 1322.12 of 2402  
the Revised Code. The superintendent shall not use a credit score 2403  
as the sole basis for a license denial. 2404

(7) The applicant is in compliance with the surety bond 2405  
requirements of section 1322.05 of the Revised Code. 2406

(8) The applicant has not had a loan originator license, or 2407  
comparable authority, revoked in any governmental jurisdiction. 2408

(B) The license issued under division (A) of this section may 2409  
be renewed annually on or before the thirty-first day of December 2410  
if the superintendent finds that all of the following conditions 2411  
are met: 2412

(1) The renewal application is accompanied by a nonrefundable 2413  
renewal fee of one hundred fifty dollars and any fee required by 2414  
the nationwide mortgage licensing system and registry. If a check 2415  
or other draft instrument is returned to the superintendent for 2416  
insufficient funds, the superintendent shall notify the licensee 2417  
by certified mail, return receipt requested, that the license 2418  
renewed in reliance on the check or other draft instrument will be 2419  
canceled unless the licensee, within thirty days after receipt of 2420  
the notice, submits the renewal fee and a one-hundred-dollar 2421  
penalty to the superintendent. If the licensee does not submit the 2422  
renewal fee and penalty within that time period, or if any check 2423  
or other draft instrument used to pay the fee or penalty is 2424  
returned to the superintendent for insufficient funds, the license 2425  
shall be canceled immediately without a hearing, and the licensee 2426  
shall cease activity as a loan originator. 2427

(2) The applicant has completed at least eight hours of 2428  
continuing education as required under section 1322.052 of the 2429  
Revised Code. 2430

(3) The applicant meets the conditions set forth in divisions 2431  
(A)(2) to (8) of this section; provided, however, that an 2432  
applicant who was issued a loan officer license prior to January 2433  
1, 2010, and has continuously maintained that license shall not be 2434  
required to meet the condition described in division (B)(1)(b) of 2435  
section 1322.031 of the Revised Code. 2436

(4) The applicant's license is not subject to an order of 2437  
suspension or an unpaid and past due fine imposed by the 2438  
superintendent. 2439

(C)(1) Subject to division (C)(2) of this section, if a 2440  
license renewal application or renewal fee, including any fee 2441  
required by the nationwide mortgage licensing system and registry, 2442  
is received by the superintendent after the thirty-first day of 2443  
December, the license shall not be considered renewed, and the 2444



applicant shall cease activity as a loan originator. 2445

(2) Division (C)(1) of this section shall not apply if the 2446  
applicant, no later than the thirty-first day of January, submits 2447  
the renewal application and fees and a one-hundred-dollar penalty 2448  
to the superintendent. 2449

(D) Loan originator licenses issued on or after May 1, 2010, 2450  
annually expire on the thirty-first day of December. 2451

**Sec. 1322.062.** (A)(1) Within three business days after taking 2452  
an application for a residential mortgage loan from a buyer, a 2453  
registrant or licensee shall deliver to the buyer a residential 2454  
mortgage loan origination disclosure statement that contains all 2455  
of the following: 2456

(a) The name, address, and telephone number of the buyer; 2457

(b) The typewritten name of the loan originator and the 2458  
number designated on the loan originator's license; 2459

(c) The street address, telephone number, and facsimile 2460  
number of the registrant and the number designated on the 2461  
registrant's certificate of registration; 2462

(d) The signature of the loan originator or registrant; 2463

(e) A statement indicating whether the buyer is to pay for 2464  
the services of a bona fide third party if the registrant is 2465  
unable to assist the buyer in obtaining a mortgage; 2466

(f) A statement that describes the method by which the fee to 2467  
be paid by the buyer to the registrant will be calculated and a 2468  
good faith estimate of the total amount of that fee; 2469

(g) A statement that the lender may pay compensation to the 2470  
registrant; 2471

(h) A description of all the services the registrant has 2472  
agreed to perform for the buyer; 2473

(i) A statement that the buyer has not entered into an 2474  
exclusive agreement for brokerage services; 2475

(j) If the residential mortgage loan applied for will exceed 2476  
ninety per cent of the value of the real property, a statement, 2477  
printed in boldface type of the minimum size of sixteen points, as 2478  
follows: "You are applying for a loan that is more than 90% of 2479  
your home's value. It will be hard for you to refinance this loan. 2480  
If you sell your home, you might owe more money on the loan than 2481  
you get from the sale." 2482

(k) To acknowledge receipt, the signature of the buyer. 2483

(2) If the loan is a covered loan as defined in section 2484  
1349.25 of the Revised Code, the registrant shall also deliver a 2485  
copy of the residential mortgage loan origination disclosure 2486  
statement to the lender. 2487

(B) If there is any change in the information provided under 2488  
division (A)(1) of this section, the registrant or licensee shall 2489  
provide the buyer with the revised residential mortgage loan 2490  
origination disclosure statement and a written explanation of why 2491  
the change occurred no later than twenty-four hours after the 2492  
change occurs, or twenty-four hours before the loan is closed, 2493  
whichever is earlier. 2494

(C) A registrant or licensee shall deliver to the buyer, 2495  
immediately upon receipt, a copy of any nonproprietary or publicly 2496  
available credit score and report obtained regarding the buyer by 2497  
the registrant or licensee for the purpose of the residential 2498  
mortgage loan application. 2499

If the loan originator or registrant uses an automated 2500  
valuation model to determine an appraisal report, the registrant 2501  
or licensee also shall include a copy of the automated valuation 2502  
model report. 2503

(D) A registrant or licensee shall deliver to the buyer, at 2504

the same time that the registrant or licensee delivers the 2505  
residential mortgage loan origination disclosure statement 2506  
pursuant to division (A) of this section, a both of the following 2507  
documents: 2508

(1) A good faith estimate statement that discloses the amount 2509  
of or range of charges for the specific settlement services the 2510  
buyer is likely to incur in connection with the residential 2511  
mortgage loan. The good faith estimate statement shall meet the 2512  
requirements of the "Real Estate Settlement Procedures Act," 88 2513  
Stat. 1724 (1974), 12 U.S.C.A. 2601 et seq., ~~and shall include the~~ 2514  
~~following~~ 2515

(2) An underlined notice in at least ten-point type, new 2516  
roman style, as follows: 2517

"Nature of Relationship: In connection with this residential 2518  
mortgage loan, you, the borrower(s), has/have requested assistance 2519  
from ..... (company name) in arranging credit. We do not 2520  
distribute all products in the marketplace and cannot guarantee 2521  
the lowest rate. 2522

Termination: This agreement will continue until one of the 2523  
following events occur: 2524

1. The loan closes. 2525

2. The request is denied. 2526

3. The borrower withdraws the request. 2527

4. The borrower decides to use another source for 2528  
origination. 2529

5. The borrower is provided a revised good faith estimate 2530  
statement. 2531

Notice to borrower(s): Signing this document does not obligate you 2532  
to obtain a residential mortgage loan through this mortgage 2533  
originator nor is this a loan commitment or an approval; nor is 2534

your interest rate locked at this time unless otherwise disclosed 2535  
on a separate Rate Lock Disclosure Form. Do not sign this document 2536  
until you have read and understood the information in it. You will 2537  
receive a redisclosure of any increase in interest rate or if the 2538  
total sum of disclosed settlement/closing costs increases by 10% 2539  
or more of the original estimate. Should any such increase occur, 2540  
mandatory redisclosure must occur prior to the settlement or close 2541  
of escrow." 2542

(E) No registrant or licensee shall fail to comply with this 2543  
section. 2544

**Sec. 1322.07.** No registrant, licensee, person required to be 2545  
registered or licensed under sections 1322.01 to 1322.12 of the 2546  
Revised Code, or individual disclosed in an application as 2547  
required by division (A)(2) of section 1322.03 of the Revised Code 2548  
shall do any of the following: 2549

(A) Obtain a mortgage broker certificate of registration or 2550  
loan originator license through any false or fraudulent 2551  
representation of a material fact or any omission of a material 2552  
fact required by state law, or make any substantial 2553  
misrepresentation in any registration or license application; 2554

(B) Make false or misleading statements of a material fact, 2555  
omissions of statements required by state or federal law, or false 2556  
promises regarding a material fact, through advertising or other 2557  
means, or engage in a continued course of misrepresentations; 2558

(C) Engage in conduct that constitutes improper, fraudulent, 2559  
or dishonest dealings; 2560

(D) Fail to notify the division of financial institutions 2561  
within thirty days after any of the following: 2562

(1) Being convicted of or pleading guilty or nolo contendere 2563  
to a felony in a domestic, foreign, or military court; 2564

(2) Being convicted of or pleading guilty <u>or nolo contendere</u>	2565
to any criminal offense involving theft, receiving stolen	2566
property, embezzlement, forgery, fraud, passing bad checks, money	2567
laundering, breach of trust, dishonesty, or drug trafficking, or	2568
any criminal offense involving money or securities, <u>in a domestic,</u>	2569
<u>foreign, or military court;</u>	2570
(3) Having a mortgage broker certificate of registration or	2571
loan originator license, or any comparable authority, revoked in	2572
any governmental jurisdiction.	2573
(E) Knowingly make, propose, or solicit fraudulent, false, or	2574
misleading statements on any mortgage loan document or on any	2575
document related to a mortgage loan, including a mortgage	2576
application, real estate appraisal, or real estate settlement or	2577
closing document. For purposes of this division, "fraudulent,	2578
false, or misleading statements" does not include mathematical	2579
errors, inadvertent transposition of numbers, typographical	2580
errors, or any other bona fide error.	2581
(F) Knowingly instruct, solicit, propose, or otherwise cause	2582
a buyer to sign in blank a mortgage related document;	2583
(G) Knowingly compensate, instruct, induce, coerce, or	2584
intimidate, or attempt to compensate, instruct, induce, coerce, or	2585
intimidate, a person licensed or certified under Chapter 4763. of	2586
the Revised Code for the purpose of corrupting or improperly	2587
influencing the independent judgment of the person with respect to	2588
the value of the dwelling offered as security for repayment of a	2589
mortgage loan;	2590
(H) Promise to refinance a loan in the future at a lower	2591
interest rate or with more favorable terms, unless the promise is	2592
set forth in writing and is initialed by the buyer;	2593
(I) Engage in any unfair, deceptive, or unconscionable act or	2594
practice prohibited under sections 1345.01 to 1345.13 of the	2595

Revised Code. 2596

**Sec. 1322.074.** (A) Except as otherwise provided in division 2597  
(B) of this section, no registrant, or any member of the immediate 2598  
family of an owner of a registrant, shall own or control a 2599  
majority interest in an appraisal company. 2600

(B) Division (A) of this section shall not apply to any 2601  
registrant, or any member of the immediate family of an owner of a 2602  
registrant, who, on ~~the effective date of this amendment~~ January 2603  
1, 2010, directly or indirectly owns or controls a majority 2604  
interest in an appraisal company. However, such ownership or 2605  
control is subject to the following conditions: 2606

(1) The registrant and members of the immediate family of an 2607  
owner of a registrant shall not increase their interest in the 2608  
company. 2609

(2) The interest is not transferable to a member of the 2610  
immediate family of an owner of a registrant. 2611

(3) If the registrant is convicted of or pleads guilty or 2612  
nolo contendere to a criminal violation of sections 1322.01 to 2613  
1322.12 of the Revised Code or any criminal offense described in 2614  
division (A)(1)(b) of section 1322.10 of the Revised Code, the 2615  
superintendent of financial institutions may, in addition to any 2616  
of the actions authorized under section 1322.10 of the Revised 2617  
Code, order the registrant or members of the immediate family of 2618  
an owner of a registrant to divest their interest in the company. 2619

**Sec. 1322.10.** (A) After notice and opportunity for a hearing 2620  
conducted in accordance with Chapter 119. of the Revised Code, the 2621  
superintendent of financial institutions may do the following: 2622

(1) Suspend, revoke, or refuse to issue or renew a 2623  
certificate of registration or license if the superintendent finds 2624  
any of the following: 2625

(a) A violation of or failure to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections, federal lending law, or any other law applicable to the business conducted under a certificate of registration or license;

(b) A conviction of or guilty or nolo contendere plea to a felony in a domestic, foreign, or military court;

(c) A conviction of or guilty or nolo contendere plea to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, breach of trust, dishonesty, or drug trafficking, or any criminal offense involving money or securities, in a domestic, foreign, or military court;

(d) The revocation of a mortgage broker certificate of registration or loan originator license, or any comparable authority, in any governmental jurisdiction.

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

(a) The seriousness of the violation;

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

(c) The registrant's or licensee's history regarding	2657
violations and compliance with division orders;	2658
(d) The registrant's or licensee's financial resources;	2659
(e) Any other matters the superintendent considers	2660
appropriate in enforcing sections 1322.01 to 1322.12 of the	2661
Revised Code.	2662
(B) The superintendent may investigate alleged violations of	2663
sections 1322.01 to 1322.12 of the Revised Code or the rules	2664
adopted under those sections or complaints concerning any	2665
violation.	2666
(1) The superintendent may make application to the court of	2667
common pleas for an order enjoining any violation and, upon a	2668
showing by the superintendent that a person has committed or is	2669
about to commit that violation, the court shall grant an	2670
injunction, restraining order, or other appropriate relief.	2671
(2) The superintendent may make application to the court of	2672
common pleas for an order enjoining any person from acting as a	2673
mortgage broker, registrant, loan originator, or licensee in	2674
violation of division (A) or (B) of section 1322.02 of the Revised	2675
Code, and may seek and obtain civil penalties for unregistered or	2676
unlicensed conduct of not more than five thousand dollars per	2677
violation.	2678
(C) In conducting any investigation pursuant to this section,	2679
the superintendent may compel, by subpoena, witnesses to testify	2680
in relation to any matter over which the superintendent has	2681
jurisdiction and may require the production of any book, record,	2682
or other document pertaining to that matter. If a person fails to	2683
file any statement or report, obey any subpoena, give testimony,	2684
produce any book, record, or other document as required by a	2685
subpoena, or permit photocopying of any book, record, or other	2686
document subpoenaed, the court of common pleas of any county in	2687



this state, upon application made to it by the superintendent, 2688  
shall compel obedience by attachment proceedings for contempt, as 2689  
in the case of disobedience of the requirements of a subpoena 2690  
issued from the court or a refusal to testify therein. 2691

(D) If the superintendent determines that a person is engaged 2692  
in or is believed to be engaged in activities that may constitute 2693  
a violation of sections 1322.01 to 1322.12 of the Revised Code or 2694  
any rule adopted thereunder, the superintendent, after notice and 2695  
a hearing conducted in accordance with Chapter 119. of the Revised 2696  
Code, may issue a cease and desist order. If the administrative 2697  
action is to enjoin a person from acting as a mortgage broker or 2698  
loan originator in violation of division (A) or (B) of section 2699  
1322.02 of the Revised Code, the superintendent may seek and 2700  
impose fines for that conduct in an amount not to exceed five 2701  
thousand dollars per violation. Such an order shall be enforceable 2702  
in the court of common pleas. 2703

(E) If the superintendent revokes a mortgage broker 2704  
certificate of registration or loan originator license, the 2705  
revocation shall be permanent and with prejudice. 2706

(F)(1) To protect the public interest, the superintendent 2707  
may, without a prior hearing, do any of the following: 2708

(a) Suspend the mortgage broker certificate of registration 2709  
or loan originator license of a registrant or licensee who is 2710  
convicted of or pleads guilty or nolo contendere to a criminal 2711  
violation of any provision of sections 1322.01 to 1322.12 of the 2712  
Revised Code or any criminal offense described in division 2713  
(A)(1)(b) or (c) of this section; 2714

(b) Suspend the mortgage broker certificate of registration 2715  
of a registrant who violates division (F) of section 1322.05 of 2716  
the Revised Code; 2717

(c) Suspend the mortgage broker certificate of registration 2718

or loan originator license of a registrant or licensee who fails 2719  
to comply with a request made by the superintendent under section 2720  
1322.03 or 1322.031 of the Revised Code to inspect qualifying 2721  
education transcripts located at the registrant's or licensee's 2722  
place of business. 2723

(2) The superintendent may, in accordance with Chapter 119. 2724  
of the Revised Code, subsequently revoke any registration or 2725  
license suspended under division (F)(1) of this section. 2726

(3) The superintendent shall, in accordance with Chapter 119. 2727  
of the Revised Code, adopt rules establishing the maximum amount 2728  
of time a suspension under division (F)(1) of this section may 2729  
continue before a hearing is conducted. 2730

(G) The imposition of fines under this section does not 2731  
preclude any penalty imposed under section 1322.99 of the Revised 2732  
Code. 2733

**Sec. 1322.99.** (A) Whoever violates division (A)(1) or (2) of 2734  
section 1322.02, division (E), (F), or (G) of section 1322.07, 2735  
division (B)(1) or (2) of section 1322.071, or section 1322.08 of 2736  
the Revised Code is guilty of a felony of the fifth degree. 2737

(B) Whoever violates division (B)(3) of section 1322.071 of 2738  
the Revised Code is guilty of a felony of the fourth degree. 2739

(C) Whoever violates division (B) or (C)(1) or (2) of section 2740  
1322.02 of the Revised Code is guilty of a misdemeanor of the 2741  
first degree. 2742

**Sec. 1343.011.** (A) As used in this section: 2743

(1) "Discount points" means any charges, whether or not 2744  
actually denominated as "discount points," that are paid by the 2745  
seller or the buyer of residential real property to a residential 2746  
mortgage lender or that are deducted and retained by a residential 2747

mortgage lender from the proceeds of the residential mortgage. 2748

"Discount points" does not include the costs associated with 2749  
settlement services as defined in the "Real Estate Settlement 2750  
Procedures Act of 1974," 88 Stat. 1724, 12 U.S.C. 2601, amendments 2751  
thereto, reenactments thereof, enactments parallel thereto, or in 2752  
substitution therefor, or regulations issued thereunder. 2753

(2) "Residential mortgage" means an obligation to pay a sum 2754  
of money evidenced by a note and secured by a lien upon real 2755  
property located within this state containing two or fewer 2756  
residential units or on which two or fewer residential units are 2757  
to be constructed and includes such an obligation on a residential 2758  
condominium or cooperative unit. 2759

(3) "Residential mortgage lender" means any person, bank, or 2760  
savings and loan association that lends money or extends or grants 2761  
credit and obtains a residential mortgage to assure payment of the 2762  
debt. The term also includes the holder at any time of a 2763  
residential mortgage obligation. 2764

(B) Except residential mortgage loans described in division 2765  
(B)(3) of section 1343.01 of the Revised Code, no residential 2766  
mortgage lender shall receive either directly or indirectly from a 2767  
seller or buyer of real estate any discount points in excess of 2768  
two per cent of the original principal amount of the residential 2769  
mortgage. This division is not a limitation on discount points or 2770  
other charges for purposes of section 501(b)(4) of the "Depository 2771  
Institutions Deregulation and Monetary Control Act of 1980," 94 2772  
Stat. 161, 12 U.S.C.A. 1735f-7a. 2773

(C)(1) Except as provided in division (C)(2) of this section, 2774  
residential mortgage obligations may be prepaid or refinanced 2775  
without penalty at any time after five years from the execution 2776  
date of the mortgage. Prior to such time a prepayment or 2777  
refinancing penalty may be provided not in excess of one per cent 2778  
of the original principal amount of the residential mortgage. 2779

(2)(a) No penalty may be charged for the prepayment or 2780  
refinancing of a residential mortgage obligation of less than 2781  
seventy-five thousand dollars that is made or arranged by a 2782  
mortgage broker, loan ~~originator~~ officer, or nonbank mortgage 2783  
lender, as those terms are defined in section 1345.01 of the 2784  
Revised Code, and that is secured by a mortgage on a borrower's 2785  
real estate that is a first lien on the real estate. 2786

(b) The amount specified in division (C)(2)(a) of this 2787  
section shall be adjusted annually on the first day of January by 2788  
the annual percentage change in the consumer price index for all 2789  
urban consumers, midwest region, all items, as determined by the 2790  
bureau of labor statistics of the United States department of 2791  
labor or, if that index is no longer published, a generally 2792  
available comparable index, as reported on the first day of June 2793  
of the year preceding the adjustment. The department of commerce 2794  
shall publish the adjusted amounts on its official web site. 2795

**Sec. 1345.01.** As used in sections 1345.01 to 1345.13 of the 2796  
Revised Code: 2797

(A) "Consumer transaction" means a sale, lease, assignment, 2798  
award by chance, or other transfer of an item of goods, a service, 2799  
a franchise, or an intangible, to an individual for purposes that 2800  
are primarily personal, family, or household, or solicitation to 2801  
supply any of these things. "Consumer transaction" does not 2802  
include transactions between persons, defined in sections 4905.03 2803  
and 5725.01 of the Revised Code, and their customers, except for 2804  
transactions involving a loan made pursuant to sections 1321.35 to 2805  
1321.48 of the Revised Code and transactions in connection with 2806  
residential mortgages between loan ~~originators~~ officers, mortgage 2807  
brokers, or nonbank mortgage lenders and their customers; 2808  
transactions between certified public accountants or public 2809  
accountants and their clients; transactions between attorneys, 2810

physicians, or dentists and their clients or patients; and 2811  
transactions between veterinarians and their patients that pertain 2812  
to medical treatment but not ancillary services. 2813

(B) "Person" includes an individual, corporation, government, 2814  
governmental subdivision or agency, business trust, estate, trust, 2815  
partnership, association, cooperative, or other legal entity. 2816

(C) "Supplier" means a seller, lessor, assignor, franchisor, 2817  
or other person engaged in the business of effecting or soliciting 2818  
consumer transactions, whether or not the person deals directly 2819  
with the consumer. If the consumer transaction is in connection 2820  
with a residential mortgage, "supplier" does not include an 2821  
assignee or purchaser of the loan for value, except as otherwise 2822  
provided in section 1345.091 of the Revised Code. For purposes of 2823  
this division, in a consumer transaction in connection with a 2824  
residential mortgage, "seller" means a loan ~~originator~~ officer, 2825  
mortgage broker, or nonbank mortgage lender. 2826

(D) "Consumer" means a person who engages in a consumer 2827  
transaction with a supplier. 2828

(E) "Knowledge" means actual awareness, but such actual 2829  
awareness may be inferred where objective manifestations indicate 2830  
that the individual involved acted with such awareness. 2831

(F) "Natural gas service" means the sale of natural gas, 2832  
exclusive of any distribution or ancillary service. 2833

(G) "Public telecommunications service" means the 2834  
transmission by electromagnetic or other means, other than by a 2835  
telephone company as defined in section 4927.01 of the Revised 2836  
Code, of signs, signals, writings, images, sounds, messages, or 2837  
data originating in this state regardless of actual call routing. 2838  
"Public telecommunications service" excludes a system, including 2839  
its construction, maintenance, or operation, for the provision of 2840  
telecommunications service, or any portion of such service, by any 2841

entity for the sole and exclusive use of that entity, its parent, 2842  
a subsidiary, or an affiliated entity, and not for resale, 2843  
directly or indirectly; the provision of terminal equipment used 2844  
to originate telecommunications service; broadcast transmission by 2845  
radio, television, or satellite broadcast stations regulated by 2846  
the federal government; or cable television service. 2847

(H)(1) "Loan originator officer" ~~has the same meaning means~~ 2848  
an individual who for compensation or gain, or in anticipation of 2849  
compensation or gain, takes or offers to take a residential 2850  
mortgage loan application; assists or offers to assist a buyer in 2851  
obtaining or applying to obtain a residential mortgage loan by, 2852  
among other things, advising on loan terms, including rates, fees, 2853  
and other costs; offers or negotiates terms of a residential 2854  
mortgage loan; or issues or offers to issue a commitment for a 2855  
residential mortgage loan. "Loan officer" also includes a loan 2856  
originator as defined in division (E)(1) of section 1322.01 of the 2857  
Revised Code, and includes a "mortgage loan originator" as defined 2858  
in section 1321.51 of the Revised Code, except that it, 2859

(2) "Loan officer" does not include an employee of a bank, 2860  
savings bank, savings and loan association, credit union, or 2861  
credit union service organization organized under the laws of this 2862  
state, another state, or the United States; an employee of a 2863  
subsidiary of such a bank, savings bank, savings and loan 2864  
association, or credit union; or an employee of an affiliate that 2865  
~~(1)~~(a) controls, is controlled by, or is under common control 2866  
with, such a bank, savings bank, savings and loan association, or 2867  
credit union and ~~(2)~~(b) is subject to examination, supervision, 2868  
and regulation, including with respect to the affiliate's 2869  
compliance with applicable consumer protection requirements, by 2870  
the board of governors of the federal reserve system, the 2871  
comptroller of the currency, the office of thrift supervision, the 2872  
federal deposit insurance corporation, or the national credit 2873

union administration. 2874

(I) "Residential mortgage" or "mortgage" means an obligation 2875  
to pay a sum of money evidenced by a note and secured by a lien 2876  
upon real property located within this state containing two or 2877  
fewer residential units or on which two or fewer residential units 2878  
are to be constructed and includes such an obligation on a 2879  
residential condominium or cooperative unit. 2880

(J)(1) ~~"Mortgage broker" has the same meaning as in section~~ 2881  
~~1322.01 of the Revised Code, except that it means any of the~~ 2882  
following: 2883

(a) A person that holds that person out as being able to 2884  
assist a buyer in obtaining a mortgage and charges or receives 2885  
from either the buyer or lender money or other valuable 2886  
consideration readily convertible into money for providing this 2887  
assistance; 2888

(b) A person that solicits financial and mortgage information 2889  
from the public, provides that information to a mortgage broker or 2890  
a person that makes residential mortgage loans, and charges or 2891  
receives from either of them money or other valuable consideration 2892  
readily convertible into money for providing the information; 2893

(c) A person engaged in table-funding or warehouse-lending 2894  
mortgage loans that are residential mortgage loans. 2895

(2) "Mortgage broker" does not include a bank, savings bank, 2896  
savings and loan association, credit union, or credit union 2897  
service organization organized under the laws of this state, 2898  
another state, or the United States; a subsidiary of such a bank, 2899  
savings bank, savings and loan association, or credit union; an 2900  
affiliate that ~~(1)~~(a) controls, is controlled by, or is under 2901  
common control with, such a bank, savings bank, savings and loan 2902  
association, or credit union and ~~(2)~~(b) is subject to examination, 2903  
supervision, and regulation, including with respect to the 2904

affiliate's compliance with applicable consumer protection 2905  
requirements, by the board of governors of the federal reserve 2906  
system, the comptroller of the currency, the office of thrift 2907  
supervision, the federal deposit insurance corporation, or the 2908  
national credit union administration; or an employee of any such 2909  
entity. 2910

(K) "Nonbank mortgage lender" means any person that engages 2911  
in a consumer transaction in connection with a residential 2912  
mortgage, except for a bank, savings bank, savings and loan 2913  
association, credit union, or credit union service organization 2914  
organized under the laws of this state, another state, or the 2915  
United States; a subsidiary of such a bank, savings bank, savings 2916  
and loan association, or credit union; or an affiliate that (1) 2917  
controls, is controlled by, or is under common control with, such 2918  
a bank, savings bank, savings and loan association, or credit 2919  
union and (2) is subject to examination, supervision, and 2920  
regulation, including with respect to the affiliate's compliance 2921  
with applicable consumer protection requirements, by the board of 2922  
governors of the federal reserve system, the comptroller of the 2923  
currency, the office of thrift supervision, the federal deposit 2924  
insurance corporation, or the national credit union 2925  
administration. 2926

(L) For purposes of divisions (H), (J), and (K) of this 2927  
section: 2928

(1) "Control" of another entity means ownership, control, or 2929  
power to vote twenty-five per cent or more of the outstanding 2930  
shares of any class of voting securities of the other entity, 2931  
directly or indirectly or acting through one or more other 2932  
persons. 2933

(2) "Credit union service organization" means a CUSO as 2934  
defined in 12 C.F.R. 702.2. 2935



<b>Sec. 1345.05.</b> (A) The attorney general shall:	2936
(1) Adopt, amend, and repeal procedural rules;	2937
(2) Adopt as a rule a description of the organization of the attorney general's office, stating the general courses and methods of operation of the section of the office of the attorney general, which is to administer Chapter 1345. of the Revised Code and methods whereby the public may obtain information or make submissions or requests, including a description of all forms and instructions used by that office;	2938 2939 2940 2941 2942 2943 2944
(3) Make available for public inspection all rules and all other written statements of policy or interpretations adopted or used by the attorney general in the discharge of the attorney general's functions, together with all judgments, including supporting opinions, by courts of this state that determine the rights of the parties and concerning which appellate remedies have been exhausted, or lost by the expiration of the time for appeal, determining that specific acts or practices violate section 1345.02, 1345.03, or 1345.031 of the Revised Code;	2945 2946 2947 2948 2949 2950 2951 2952 2953
(4) Inform consumers and suppliers on a continuing basis of acts or practices that violate Chapter 1345. of the Revised Code by, among other things, publishing an informational document describing acts and practices in connection with residential mortgages that are unfair, deceptive, or unconscionable, and by making that information available on the attorney general's official web site;	2954 2955 2956 2957 2958 2959 2960
(5) Cooperate with state and local officials, officials of other states, and officials of the federal government in the administration of comparable statutes;	2961 2962 2963
(6) Report annually on or before the first day of January to the governor and the general assembly on the operations of the	2964 2965

attorney general in respect to Chapter 1345. of the Revised Code, 2966  
and on the acts or practices occurring in this state that violate 2967  
such chapter. The report shall include a statement of 2968  
investigatory and enforcement procedures and policies, of the 2969  
number of investigations and enforcement proceedings instituted 2970  
and of their disposition, and of other activities of the state and 2971  
of other persons to promote the purposes of Chapter 1345. of the 2972  
Revised Code. 2973

(7) In carrying out official duties, the attorney general 2974  
shall not disclose publicly the identity of suppliers investigated 2975  
or the facts developed in investigations unless these matters have 2976  
become a matter of public record in enforcement proceedings, in 2977  
public hearings conducted pursuant to division (B)(1) of this 2978  
section, or the suppliers investigated have consented in writing 2979  
to public disclosure. 2980

(B) The attorney general may: 2981

(1) Conduct research, make inquiries, hold public hearings, 2982  
and publish studies relating to consumer transactions; 2983

(2) Adopt, amend, and repeal substantive rules defining with 2984  
reasonable specificity acts or practices that violate sections 2985  
1345.02, 1345.03, and 1345.031 of the Revised Code. In adopting, 2986  
amending, or repealing substantive rules defining acts or 2987  
practices that violate section 1345.02 of the Revised Code, due 2988  
consideration and great weight shall be given to federal trade 2989  
commission orders, trade regulation rules and guides, and the 2990  
federal courts' interpretations of subsection 45(a)(1) of the 2991  
"Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 2992  
41, as amended. 2993

In adopting, amending, or repealing such rules concerning a 2994  
consumer transaction in connection with a residential mortgage, 2995  
the attorney general shall consult with the superintendent of 2996

financial institutions and shall give due consideration to state 2997  
and federal statutes, regulations, administrative agency 2998  
interpretations, and case law. 2999

(C) In the conduct of public hearings authorized by this 3000  
section, the attorney general may administer oaths, subpoena 3001  
witnesses, adduce evidence, and require the production of relevant 3002  
material. Upon failure of a person without lawful excuse to obey a 3003  
subpoena or to produce relevant matter, the attorney general may 3004  
apply to a court of common pleas for an order compelling 3005  
compliance. 3006

(D) The attorney general may request that an individual who 3007  
refuses to testify or to produce relevant material on the ground 3008  
that the testimony or matter may incriminate the individual be 3009  
ordered by the court to provide the testimony or matter. With the 3010  
exception of a prosecution for perjury and an action for damages 3011  
under section 1345.07 or 1345.09 of the Revised Code, an 3012  
individual who complies with a court order to provide testimony or 3013  
matter, after asserting a privilege against self incrimination to 3014  
which the individual is entitled by law, shall not be subjected to 3015  
a criminal proceeding on the basis of the testimony or matter 3016  
discovered through that testimony or matter. 3017

(E) Any person may petition the attorney general requesting 3018  
the adoption, amendment, or repeal of a rule. The attorney general 3019  
shall prescribe by rule the form for such petitions and the 3020  
procedure for their submission, consideration, and disposition. 3021  
Within sixty days of submission of a petition, the attorney 3022  
general shall either deny the petition in writing, stating the 3023  
reasons for the denial, or initiate rule-making proceedings. There 3024  
is no right to appeal from such denial of a petition. 3025

(F) All rules shall be adopted subject to Chapter 119. of the 3026  
Revised Code. 3027

(G) The informational document published in accordance with 3028  
division (A)(4) of this section shall be made available for 3029  
distribution to consumers who are applying for a mortgage loan. An 3030  
acknowledgement of receipt shall be retained by the lender, 3031  
mortgage broker, and loan ~~originator~~ officer, as applicable, 3032  
subject to review by the attorney general and the department of 3033  
commerce. 3034

**Sec. 1345.09.** For a violation of Chapter 1345. of the Revised 3035  
Code, a consumer has a cause of action and is entitled to relief 3036  
as follows: 3037

(A) Where the violation was an act prohibited by section 3038  
1345.02, 1345.03, or 1345.031 of the Revised Code, the consumer 3039  
may, in an individual action, rescind the transaction or recover 3040  
the consumer's actual economic damages plus an amount not 3041  
exceeding five thousand dollars in noneconomic damages. 3042

(B) Where the violation was an act or practice declared to be 3043  
deceptive or unconscionable by rule adopted under division (B)(2) 3044  
of section 1345.05 of the Revised Code before the consumer 3045  
transaction on which the action is based, or an act or practice 3046  
determined by a court of this state to violate section 1345.02, 3047  
1345.03, or 1345.031 of the Revised Code and committed after the 3048  
decision containing the determination has been made available for 3049  
public inspection under division (A)(3) of section 1345.05 of the 3050  
Revised Code, the consumer may rescind the transaction or recover, 3051  
but not in a class action, three times the amount of the 3052  
consumer's actual economic damages or two hundred dollars, 3053  
whichever is greater, plus an amount not exceeding five thousand 3054  
dollars in noneconomic damages or recover damages or other 3055  
appropriate relief in a class action under Civil Rule 23, as 3056  
amended. 3057

(C)(1) Except as otherwise provided in division (C)(2) of 3058

this section, in any action for rescission, revocation of the 3059  
consumer transaction must occur within a reasonable time after the 3060  
consumer discovers or should have discovered the ground for it and 3061  
before any substantial change in condition of the subject of the 3062  
consumer transaction. 3063

(2) If a consumer transaction between a loan ~~originator~~ 3064  
officer, mortgage broker, or nonbank mortgage lender and a 3065  
customer is in connection with a residential mortgage, revocation 3066  
of the consumer transaction in an action for rescission is only 3067  
available to a consumer in an individual action, and shall occur 3068  
for no reason other than one or more of the reasons set forth in 3069  
the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C. 1635, 3070  
not later than the time limit within which the right of rescission 3071  
under section 125(f) of the "Truth in Lending Act" expires. 3072

(D) Any consumer may seek a declaratory judgment, an 3073  
injunction, or other appropriate relief against an act or practice 3074  
that violates this chapter. 3075

(E) When a consumer commences an individual action for a 3076  
declaratory judgment or an injunction or a class action under this 3077  
section, the clerk of court shall immediately mail a copy of the 3078  
complaint to the attorney general. Upon timely application, the 3079  
attorney general may be permitted to intervene in any private 3080  
action or appeal pending under this section. When a judgment under 3081  
this section becomes final, the clerk of court shall mail a copy 3082  
of the judgment including supporting opinions to the attorney 3083  
general for inclusion in the public file maintained under division 3084  
(A)(3) of section 1345.05 of the Revised Code. 3085

(F) The court may award to the prevailing party a reasonable 3086  
attorney's fee limited to the work reasonably performed, if either 3087  
of the following apply: 3088

(1) The consumer complaining of the act or practice that 3089

violated this chapter has brought or maintained an action that is 3090  
groundless, and the consumer filed or maintained the action in bad 3091  
faith; 3092

(2) The supplier has knowingly committed an act or practice 3093  
that violates this chapter. 3094

(G) As used in this section, "actual economic damages" means 3095  
damages for direct, incidental, or consequential pecuniary losses 3096  
resulting from a violation of Chapter 1345. of the Revised Code 3097  
and does not include damages for noneconomic loss as defined in 3098  
section 2315.18 of the Revised Code. 3099

(H) Nothing in this section shall preclude a consumer from 3100  
also proceeding with a cause of action under any other theory of 3101  
law. 3102

**Sec. 1349.31.** (A)(1) No creditor shall willfully and 3103  
knowingly fail to comply with section 1349.26 or 1349.27 of the 3104  
Revised Code. For purposes of division (A)(1) of this section, 3105  
"willfully and knowingly" has the same meaning as in section 112 3106  
of the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C.A. 3107  
1611, as amended. 3108

(2) Whoever violates division (A)(1) of this section is 3109  
guilty of a felony of the fifth degree. 3110

(B) The superintendent of financial institutions may directly 3111  
bring an action to enjoin a violation of this section. The 3112  
attorney general may directly bring an action against a mortgage 3113  
broker, loan ~~originator~~ officer, or nonbank mortgage lender to 3114  
enjoin a violation of this section with the same rights, 3115  
privileges, and powers as those described in section 1345.06 of 3116  
the Revised Code. The prosecuting attorney of the county in which 3117  
the action may be brought may bring an action against a mortgage 3118  
broker, loan ~~originator~~ officer, or nonbank mortgage lender to 3119

enjoin a violation of this section only if the prosecuting attorney first presents any evidence of the violation to the attorney general and, within a reasonable period of time, the attorney general has not agreed to bring the action.

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

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

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

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

**Sec. 1349.43.** (A) As used in this section, "loan ~~originator~~ 3151  
officer," "mortgage broker," and "nonbank mortgage lender" have 3152  
the same meanings as in section 1345.01 of the Revised Code. 3153

(B) The department of commerce shall establish and maintain 3154  
an electronic database accessible through the internet that 3155  
contains information on all of the following: 3156

(1) The enforcement actions taken by the superintendent of 3157  
financial institutions for each violation of or failure to comply 3158  
with any provision of sections 1322.01 to 1322.12 of the Revised 3159  
Code, upon final disposition of the action; 3160

(2) The enforcement actions taken by the attorney general 3161  
under Chapter 1345. of the Revised Code against loan ~~originators~~ 3162  
officers, mortgage brokers, and nonbank mortgage lenders, upon 3163  
final disposition of each action; 3164

(3) All judgments by courts of this state, concerning which 3165  
appellate remedies have been exhausted or lost by the expiration 3166  
of the time for appeal, finding either of the following: 3167

(a) A violation of any provision of sections 1322.01 to 3168  
1322.12 of the Revised Code; 3169

(b) That specific acts or practices by a loan ~~originator~~ 3170  
officer, mortgage broker, or nonbank mortgage lender violate 3171  
section 1345.02, 1345.03, or 1345.031 of the Revised Code. 3172

(C) The attorney general shall submit to the department, on 3173  
the first day of each January, April, July, and October, a list of 3174  
all enforcement actions and judgments described in divisions 3175  
(B)(2) and (3)(b) of this section. 3176

(D) The department may adopt rules in accordance with Chapter 3177  
119. of the Revised Code that are necessary to implement this 3178  
section. 3179

(E) The electronic database maintained by the department in 3180



accordance with this section shall not include information that, 3181  
pursuant to section 1322.061 of the Revised Code, is confidential. 3182

**Sec. 1541.083.** The chief of the division of parks and 3183  
recreation, with the approval of the director of natural 3184  
resources, the attorney general, and the governor, may make leases 3185  
to parties making application ~~therefor~~ for leases granting 3186  
permission to take and remove halite from beneath the surface of 3187  
Headlands state park in Lake county, and coal by underground 3188  
mining methods from beneath the surface of Jefferson state park in 3189  
Jefferson county and from beneath the surface of Burr Oak state 3190  
park in Athens and Morgan counties pursuant to lease agreements 3191  
and real estate transactions that have been entered into not later 3192  
than January 1, 2011, if ~~he~~ the chief finds that such taking and 3193  
removal will in no way affect the surface of the land or the use 3194  
~~thereof~~ of the land as a public park. As the chief deems in the 3195  
best interest of the state, ~~such~~ those leases may be made either 3196  
upon a royalty or rental basis, and may be either for a term of 3197  
years or until the economic extraction of the mineral covered 3198  
~~thereby~~ by the lease has been completed. Upon request from the 3199  
lessee of any such lease, the chief may consent to its 3200  
cancellation, but any equipment or improvement thereon owned by 3201  
the lessee may be held as security by the chief for payment of all 3202  
rentals, royalties, and damages due the state at the time of 3203  
cancellation. 3204

**Sec. 1733.252.** (A) As used in this section, "nationwide 3205  
mortgage licensing system and registry" has the same meaning as in 3206  
section 1322.01 of the Revised Code. 3207

(B) Subject to division (C) of this section, each credit 3208  
union, the subsidiaries of the credit union, and the loan 3209  
originators employed by the credit union, shall comply with the 3210  
"Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 3211

122 Stat. 2810, 12 U.S.C. 5101, and register with the nationwide mortgage licensing system and registry.

(C) ~~Compliance~~ Unless otherwise preempted by federal law, compliance by a credit union insured by a credit union share guaranty corporation established under Chapter 1761. of the Revised Code, the subsidiaries of the credit union, and the loan originators employed by the credit union shall be determined by rules adopted by the superintendent of financial institutions in accordance with Chapter 119. of the Revised Code. At a minimum, the rules shall require loan originators to furnish to the nationwide mortgage licensing system and registry information concerning the loan originator's identity and be consistent with the requirements for federally insured credit unions adopted by the national credit union administration pursuant to the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

**Sec. 5302.01.** The forms set forth in sections 5302.05, 5302.07, 5302.09, 5302.11, 5302.12, 5302.14, and 5302.17, ~~and 5302.22~~ of the Revised Code may be used and shall be sufficient for their respective purposes. They shall be known as "Statutory Forms" and may be referred to as such. They may be altered as circumstances require, and the authorization of ~~such~~ those forms shall not prevent the use of other forms. Wherever the phrases defined in sections 5302.06, 5302.08, 5302.10, and 5302.13 of the Revised Code are to be incorporated in instruments by reference, the method of incorporation as indicated in the statutory forms shall be sufficient, but shall not preclude other methods.

**Sec. 5302.02.** The rules and definitions contained in sections 5302.03, 5302.04, 5302.06, 5302.08, 5302.10, 5302.13, 5302.17, 5302.18, 5302.19, 5302.20, and 5302.21, ~~and 5302.22~~ of the Revised Code apply to all deeds or other instruments relating to real estate, whether the statutory forms or other forms are used, where

the instruments are executed on or after October 1, 1965, ~~or, in~~ 3243  
~~relation to the.~~ The rules and definitions contained in section 3244  
5302.22 of the Revised Code, as it existed prior to the effective 3245  
date of this amendment, apply to instruments executed on or after 3246  
August 29, 2000, and prior to the effective date of this 3247  
amendment. The rules and definitions contained in section 5302.22 3248  
of the Revised Code apply to instruments executed on or after the 3249  
effective date of this amendment. 3250

**Sec. 5302.22.** (A) ~~A deed conveying any interest in real~~ 3251  
~~property, and in substance following the form set forth in this~~ 3252  
~~division, when duly executed in accordance with Chapter 5301. of~~ 3253  
~~the Revised Code and recorded in the office of the county~~ 3254  
~~recorder, creates a present interest as sole owner or as a tenant~~ 3255  
~~in common in the grantee and creates a transfer on death interest~~ 3256  
~~in the beneficiary or beneficiaries. Upon the death of the~~ 3257  
~~grantee, the deed vests the interest of the decedent in the~~ 3258  
~~beneficiary or beneficiaries. The deed described in this division~~ 3259  
~~shall in substance conform to the following form:~~ 3260

~~"Transfer on Death Deed~~ 3261

~~..... (marital status), of ..... County,~~ 3262  
~~..... (for valuable consideration paid, if any),~~ 3263  
~~grant(s) (with covenants, if any), to ..... whose~~ 3264  
~~tax mailing address is ....., transfer on death to~~ 3265  
~~....., beneficiary(s), the following real property:~~ 3266

~~(Description of land or interest in land and encumbrances,~~ 3267  
~~reservations, and exceptions, if any.)~~ 3268

~~Prior Instrument Reference: .....~~ 3269

~~....., wife (husband) of the grantor, releases all~~ 3270  
~~rights of dower therein.~~ 3271

~~Executed this ..... day of .....~~ 3272

.....	3273
(Signature of Grantor)	3274
<del>(Execution in accordance with Chapter 5301. of the Revised Code)</del> As used in sections 5302.22, 5302.222, 5302.23, and 5302.24	3275 3276
<u>of the Revised Code:</u>	3277
<u>(1) "Affidavit of confirmation" means an affidavit executed</u>	3278
<u>under division (A) of section 5302.222 of the Revised Code.</u>	3279
<u>(2) "Survivorship tenancy" means an ownership of real</u>	3280
<u>property or any interest in real property by two or more persons</u>	3281
<u>that is created by executing a deed pursuant to section 5302.17 of</u>	3282
<u>the Revised Code.</u>	3283
<u>(3) "Survivorship tenant" means one of the owners of real</u>	3284
<u>property or any interest in real property in a survivorship</u>	3285
<u>tenancy.</u>	3286
<u>(4) "Tenants by the entireties" mean only those persons who</u>	3287
<u>are vested as tenants in an estate by the entireties with</u>	3288
<u>survivorship pursuant to any deed recorded between February 9,</u>	3289
<u>1972, and April 3, 1985, under section 5302.17 of the Revised Code</u>	3290
<u>as it existed during that period of time. Nothing in sections</u>	3291
<u>5302.22, 5302.222, 5302.23, and 5302.24 of the Revised Code</u>	3292
<u>authorizes the creation of a tenancy by the entireties or</u>	3293
<u>recognizes a tenancy by the entireties created outside that period</u>	3294
<u>of time.</u>	3295
<u>(5) "Transfer on death designation affidavit" means an</u>	3296
<u>affidavit executed under this section.</u>	3297
<u>(6) "Transfer on death beneficiary or beneficiaries" means</u>	3298
<u>the beneficiary or beneficiaries designated in a transfer on death</u>	3299
<u>designation affidavit.</u>	3300
(B) Any <del>person</del> <u>individual</u> who, under the Revised Code or the	3301
common law of this state, owns real property or any interest in	3302
real property as a sole owner <del>or</del> , <u>as a tenant in common, or as a</u>	3303

survivorship tenant, or together with the individual's spouse owns 3304  
an indivisible interest in real property as tenants by the 3305  
entireties, may ~~create an~~ designate the entire interest, or any 3306  
specified part that is less than the entire interest, in ~~the~~ that 3307  
real property as transferable on death to a designated beneficiary 3308  
or beneficiaries by executing and recording a deed, together with 3309  
the individual's spouse, if any, a transfer on death designation 3310  
affidavit as provided in this section conveying the person's 3311  
entire, separate interest in the real property to one or more 3312  
individuals, including the grantor, and designating one or more 3313  
other persons, identified in the deed by name, as transfer on 3314  
death beneficiaries. 3315

~~A deed conveying an interest in real property that includes a~~ 3316  
~~transfer on death beneficiary designation need not be supported by~~ 3317  
~~consideration and need not be delivered to the transfer on death~~ 3318  
~~beneficiary to be effective. If the affidavit is executed by an~~ 3319  
individual together with the individual's spouse, if any, the 3320  
dower rights of the spouse are subordinate to the vesting of title 3321  
to the interest in the real property in the transfer on death 3322  
beneficiary or beneficiaries designated under this section. The 3323  
affidavit shall be recorded in the office of the county recorder 3324  
in the county in which the real property is located, and, when so 3325  
recorded, the affidavit or a certified copy of the affidavit shall 3326  
be evidence of the transfer on death beneficiary or beneficiaries 3327  
so designated in the affidavit insofar as the affidavit affects 3328  
title to the real property. 3329

(C) ~~Upon~~ (1) If an individual who owns real property or an 3330  
interest in real property as a sole owner or as a tenant in common 3331  
executes a transfer on death designation affidavit, upon the death 3332  
of that individual, title to the real property or interest in the 3333  
real property specified in the affidavit vests in the transfer on 3334  
death beneficiary or beneficiaries designated in the affidavit. 3335

(2) If an individual who owns real property or an interest in real property as a survivorship tenant executes a transfer on death designation affidavit, upon the death of that individual or of one but not all of the surviving survivorship tenants, title to the real property or interest in the real property specified in the affidavit vests in the surviving survivorship tenant or tenants. Upon the death of the last surviving survivorship tenant, title to the real property or interest in the real property vests in the transfer on death beneficiary or beneficiaries designated in the affidavit, subject to division (B)(7) of section 5302.23 of the Revised Code. 3336  
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(3) If an individual who together with the individual's spouse owns an indivisible interest in real property as tenants by the entirety executes a transfer on death designation affidavit, upon the death of that individual, title to the real property or interest in the real property vests in the remaining tenant by the entirety. Upon the death of the remaining tenant by the entirety, title to the real property or interest in the real property vests in the transfer on death beneficiary or beneficiaries designated in the affidavit, subject to division (B)(7) of section 5302.23 of the Revised Code. 3347  
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(D) A transfer on death designation affidavit shall be verified before any person authorized to administer oaths and shall include all of the following: 3357  
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(1) A description of the real property the title to which is affected by the affidavit and a reference to an instrument of record containing that description; 3360  
3361  
3362

(2) If less than the entire interest in the real property is to be transferred on death under the affidavit, a statement of the specific interest or part of the interest in the real property that is to be so transferred; 3363  
3364  
3365  
3366

(3) A statement by the individual executing the affidavit 3367  
that the individual is the person appearing on the record of the 3368  
real property as the owner of the real property or interest in the 3369  
real property at the time of the recording of the affidavit and 3370  
the marital status of that owner. If the owner is married, the 3371  
affidavit shall include a statement by the owner's spouse stating 3372  
that the spouse's dower rights are subordinate to the vesting of 3373  
title to the real property or interest in the real property in the 3374  
transfer on death beneficiary or beneficiaries designated in the 3375  
affidavit. 3376

(4) A statement designating one or more persons, identified 3377  
by name, as transfer on death beneficiary or beneficiaries. 3378

(E) The county recorder of the county in which a transfer on 3379  
death designation affidavit is offered for recording shall receive 3380  
the affidavit and cause it to be recorded in the same manner as 3381  
deeds are recorded. The county recorder shall collect a fee for 3382  
recording the affidavit in the same amount as the fee for 3383  
recording deeds. The county recorder shall index the affidavit in 3384  
the name of the owner of record of the real property or interest 3385  
in the real property who executed the affidavit. 3386

(F) A transfer on death designation affidavit need not be 3387  
supported by consideration and need not be delivered to the 3388  
transfer on death beneficiary or beneficiaries designated in the 3389  
affidavit to be effective. However, in order to be effective, that 3390  
affidavit shall be recorded with the county recorder as described 3391  
in this section prior to the death of the individual who executed 3392  
the affidavit. 3393

(G) Subject to division (C) of this section, upon the death 3394  
of any individual who owns real property or an interest in real 3395  
property that is subject to a transfer on death beneficiary 3396  
designation made under a transfer on death deed designation 3397  
affidavit as provided in this section, ~~the deceased owner's~~ that 3398

~~real property or interest in real property of the deceased owner 3399  
shall be transferred only to the transfer on death beneficiary or 3400  
beneficiaries who are identified in the deed affidavit by name and 3401  
who survive the deceased owner or that are in existence on the 3402  
date of death of the deceased owner. The transfer of the deceased 3403  
owner's interest shall be recorded by presenting to the county 3404  
auditor and filing with the county recorder an affidavit, 3405  
accompanied by a certified copy of a death certificate for the 3406  
deceased owner. The affidavit shall recite the name and address of 3407  
each designated transfer on death beneficiary who survived the 3408  
deceased owner or that is in existence on the date of the deceased 3409  
owner's death, the date of the deceased owner's death, a 3410  
description of the subject real property or interest in real 3411  
property, and the names of each designated transfer on death 3412  
beneficiary who has not survived the deceased owner or that is not 3413  
in existence on the date of the deceased owner's death. The 3414  
affidavit shall be accompanied by a certified copy of a death 3415  
certificate for each designated transfer on death beneficiary who 3416  
has not survived the deceased owner. The county recorder shall 3417  
make an index reference to any affidavit so filed in the record of 3418  
deeds. 3419~~

~~Upon the death of any individual holding real property or an 3420  
interest in real property that is subject to a transfer on death 3421  
beneficiary designation made under a transfer on death deed as 3422  
provided in this section, if the title to the real property is 3423  
registered pursuant to Chapter 5309. of the Revised Code, the 3424  
procedure for the transfer of the interest of the deceased owner 3425  
shall be pursuant to section 5309.081 of the Revised Code For 3426  
purposes of this division, if a natural or legal person designated 3427  
by name in the affidavit as a transfer on death beneficiary or as 3428  
a contingent transfer on death beneficiary as provided in division 3429  
(B)(2) of section 5302.23 of the Revised Code solely in that 3430  
person's capacity as a trustee of a trust has died, has resigned, 3431~~



or otherwise has been replaced by a successor trustee of the trust 3432  
on the date of death of the deceased owner, the successor trustee 3433  
of the trust shall be considered the transfer on death beneficiary 3434  
or contingent transfer on death beneficiary in existence on the 3435  
date of death of the deceased owner in full compliance with this 3436  
division, notwithstanding that the successor trustee is not named 3437  
as a transfer on death beneficiary or contingent transfer on death 3438  
beneficiary in the affidavit. 3439

(H) Any person who knowingly makes any false statement in a 3440  
transfer on death designation affidavit is guilty of falsification 3441  
under division (A)(6) of section 2921.13 of the Revised Code. 3442

**Sec. 5302.221.** (A) As used in this section: 3443

"Estate" has the same meaning as in section 5111.11 of the 3444  
Revised Code. 3445

"Medicaid estate recovery program" means the program 3446  
instituted under section 5111.11 of the Revised Code. 3447

(B) The administrator of the medicaid estate recovery program 3448  
shall prescribe a form on which a beneficiary of a transfer on 3449  
death ~~deed~~ designation affidavit as provided in section 5302.22 of 3450  
the Revised Code, who survives the deceased owner of the real 3451  
property or an interest in the real property or that is in 3452  
existence on the date of death of the deceased owner, or ~~such a~~ 3453  
that beneficiary's representative is to indicate both of the 3454  
following: 3455

(1) Whether the deceased owner was either of the following: 3456

(a) A decedent subject to the medicaid estate recovery 3457  
program; 3458

(b) The spouse of a decedent subject to the medicaid estate 3459  
recovery program. 3460

(2) Whether the real property or interest in the real 3461

property was part of the estate of a decedent subject to the 3462  
medicaid estate recovery program. 3463

(C) A county recorder shall obtain a properly completed form 3464  
prescribed under division (B) of this section from the beneficiary 3465  
of a transfer on death ~~deed~~ designation affidavit or the 3466  
beneficiary's representative and send a copy of the form to the 3467  
administrator of the medicaid estate recovery program before 3468  
recording the transfer of the real property or interest in the 3469  
real property under ~~division (C) of section 5302.22~~ 5302.222 of 3470  
the Revised Code. 3471

Sec. 5302.222. (A) The transfer of a deceased owner's real 3472  
property or interest in real property as designated in a transfer 3473  
on death designation affidavit provided in section 5302.22 of the 3474  
Revised Code shall be recorded by presenting to the county auditor 3475  
of the county in which the real property is located and filing 3476  
with the county recorder of that county an affidavit of 3477  
confirmation executed by any transfer on death beneficiary to whom 3478  
the transfer is made. The affidavit of confirmation shall be 3479  
verified before a person authorized to administer oaths and shall 3480  
be accompanied by a certified copy of the death certificate for 3481  
the deceased owner. The affidavit of confirmation shall contain 3482  
all of the following information: 3483

(1) The name and address of each transfer on death 3484  
beneficiary who survived the deceased owner or that is in 3485  
existence on the date of death of the deceased owner. If a named 3486  
beneficiary was designated as a transfer on death beneficiary 3487  
solely in that person's capacity as a trustee of a trust and that 3488  
trustee subsequently has been replaced by a successor trustee, the 3489  
affidavit of confirmation shall include the name and address of 3490  
the successor trustee and shall be accompanied by a copy of the 3491  
recorded successor trustee affidavit described in section 5302.171 3492

of the Revised Code. 3493

(2) The date of death of the deceased owner; 3494

(3) A description of the subject real property or interest in  
real property; 3495  
3496

(4) The name of each transfer on death beneficiary who has  
not survived the deceased owner or that is not in existence on the  
date of death of the deceased owner. 3497  
3498  
3499

(B) The affidavit of confirmation shall be accompanied by a  
certified copy of the death certificate for each transfer on death  
beneficiary who has not survived the deceased owner. 3500  
3501  
3502

(C) The county recorder shall make an index reference in the  
record of deeds to any affidavit of confirmation filed with the  
county recorder under this section. 3503  
3504  
3505

(D) Upon the death of any individual holding real property or  
an interest in real property that is the subject of a transfer on  
death designation affidavit as provided in section 5302.22 of the  
Revised Code, if the title to the real property is registered  
pursuant to Chapter 5309. of the Revised Code, the procedure for  
the transfer of the interest of the deceased owner to the transfer  
on death beneficiary or beneficiaries designated in the affidavit  
shall be pursuant to section 5309.081 of the Revised Code. 3506  
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(E) Any person who knowingly makes any false statement in an  
affidavit of confirmation is guilty of falsification under  
division (A)(6) of section 2921.13 of the Revised Code. 3514  
3515  
3516

**Sec. 5302.23.** (A) Any ~~deed~~ affidavit containing language that 3517  
shows a clear intent to designate a transfer on death beneficiary 3518  
shall be liberally construed to do so. 3519

(B) Real property or an interest in real property that is the 3520  
subject ~~to~~ of a transfer on death ~~beneficiary~~ designation 3521  
affidavit as provided in section 5302.22 of the Revised Code or as 3522

described in division (A) of this section has all of the following 3523  
characteristics and ramifications: 3524

(1) An interest of a deceased owner shall be transferred to 3525  
the transfer on death beneficiaries who are identified in the ~~deed~~ 3526  
affidavit by name and who survive the deceased owner or that are 3527  
in existence on the date of the deceased owner's death. If there 3528  
is a designation of more than one transfer on death beneficiary, 3529  
the beneficiaries shall take title ~~in~~ to the interest in equal 3530  
shares as tenants in common, unless the deceased owner has 3531  
specifically designated other than equal shares or has designated 3532  
that the beneficiaries take title as survivorship tenants, subject 3533  
to division (B)(3) of this section. If a transfer on death 3534  
beneficiary does not survive the deceased owner or is not in 3535  
existence on the date of the deceased owner's death, and the 3536  
deceased owner has designated one or more persons as contingent 3537  
transfer on death beneficiaries as provided in division (B)(2) of 3538  
this section, the designated contingent transfer on death 3539  
beneficiaries shall take the same interest that would have passed 3540  
to the transfer on death beneficiary had that transfer on death 3541  
beneficiary survived the deceased owner or been in existence on 3542  
the date of the deceased owner's death. If none of the designated 3543  
transfer on death beneficiaries survives the deceased owner or is 3544  
in existence on the date of the deceased owner's death and no 3545  
contingent transfer on death beneficiaries have been designated 3546  
~~or~~, have survived the deceased owner, or are in existence on the 3547  
date of death of the deceased owner, the interest of the deceased 3548  
owner shall be distributed as part of the probate estate of the 3549  
deceased owner of the interest. If there are two or more transfer 3550  
on death beneficiaries and the deceased owner has designated that 3551  
title to the interest in the real property be taken by those 3552  
beneficiaries as survivorship tenants, no designated contingent 3553  
transfer on death beneficiaries shall take title to the interest 3554  
unless none of the transfer on death beneficiaries survives the 3555

deceased owner on the date of death of the deceased owner. 3556

(2) A transfer on death ~~deed~~ designation affidavit may 3557  
contain a designation of one or more persons as contingent 3558  
transfer on death beneficiaries, who shall take the interest of 3559  
the deceased owner that would otherwise have passed to the 3560  
~~designated~~ transfer on death beneficiary if that named ~~designated~~ 3561  
transfer on death beneficiary does not survive the deceased owner 3562  
or is not in existence on the date of death of the deceased owner. 3563  
Persons designated as contingent transfer on death beneficiaries 3564  
shall be identified in the ~~deed~~ affidavit by name. 3565

(3) Any transfer on death beneficiary or contingent transfer 3566  
on death beneficiary may be a natural or legal person, including, 3567  
but not limited to, a bank as trustee of a trust, except that if 3568  
two or more transfer on death beneficiaries are designated as 3569  
survivorship tenants, all of those beneficiaries shall be natural 3570  
persons and if two or more contingent transfer on death 3571  
beneficiaries are designated as survivorship tenants, all of those 3572  
contingent beneficiaries shall be natural persons. A natural 3573  
person who is designated a transfer on death beneficiary or 3574  
contingent transfer on death beneficiary solely in that natural 3575  
person's capacity as a trustee of a trust is not considered a 3576  
natural person for purposes of designating the transfer on death 3577  
beneficiaries or contingent transfer on death beneficiaries as 3578  
survivorship tenants under division (B)(3) of this section. 3579

(4) The designation of a transfer on death beneficiary has no 3580  
effect on the present ownership of real property, and a person 3581  
designated as a transfer on death beneficiary has no interest in 3582  
the real property until the death of the owner of the interest. 3583

~~(4)~~(5) The designation in a ~~deed~~ transfer on death 3584  
designation affidavit of any transfer on death beneficiary may be 3585  
revoked or changed at any time, without the consent of that 3586  
~~designated~~ transfer on death beneficiary, by the owner of the 3587

interest, by the surviving survivorship tenants of the interest, 3588  
or by the remaining tenant by the entireties of the interest, by 3589  
executing in accordance with Chapter 5301. of the Revised Code and 3590  
recording, prior to the death of the owner of the interest, of the 3591  
surviving survivorship tenants of the interest, or of the 3592  
remaining tenant by the entireties of the interest, as the case 3593  
may be, a deed conveying the grantor's entire, separate interest 3594  
in the real property to one or more persons, including the 3595  
grantor, with or without the designation of another transfer on 3596  
death beneficiary new transfer on death designation affidavit 3597  
pursuant to section 5302.22 of the Revised Code stating the 3598  
revocation or change in that designation. The new transfer on 3599  
death designation affidavit shall automatically supersede and 3600  
revoke all prior recorded transfer on death designation affidavits 3601  
with respect to the real property or the interest in real property 3602  
identified in the new affidavit, provided that the prior recorded 3603  
affidavit was executed before the later recorded affidavit. 3604

~~(5)~~(6) A fee simple title or any fractional interest in a fee 3605  
simple title may be subjected to a transfer on death beneficiary 3606  
designation. 3607

~~(6)~~(7)(a) A ~~designated~~ transfer on death beneficiary takes 3608  
only the interest that the deceased owner or owners of the 3609  
interest held on the date of death, subject to all encumbrances, 3610  
reservations, and exceptions. 3611

~~(7)~~(b) If the owners hold title to the interest in a 3612  
survivorship tenancy, the death of all except the last 3613  
survivorship tenant automatically terminates and nullifies any 3614  
transfer on death beneficiary designations made solely by the 3615  
deceased survivorship tenant or tenants without joinder by the 3616  
last surviving survivorship tenant. The termination or 3617  
nullification of any transfer on death beneficiary designations 3618  
under division (B)(7)(b) of this section is effective as of the 3619

date of death of a deceased survivorship tenant. No affirmative 3620  
act of revocation is required of the last surviving survivorship 3621  
tenant for the termination or nullification of the transfer on 3622  
death beneficiary designations to occur as described in division 3623  
(B)(7)(b) of this section. If the last surviving survivorship 3624  
tenant dies with no transfer on death beneficiary designation, the 3625  
entire interest of that last surviving survivorship tenant shall 3626  
be distributed as part of the tenant's probate estate. 3627

(c) If the owners hold title to the interest in a tenancy by 3628  
the entireties, the death of the first tenant by the entireties 3629  
automatically terminates and nullifies any transfer on death 3630  
beneficiary designations made solely by that deceased first tenant 3631  
without joinder by the remaining tenant by the entireties. The 3632  
termination or nullification of any transfer on death beneficiary 3633  
designations under division (B)(7)(c) of this section is effective 3634  
as of the date of death of the first tenant by the entireties. No 3635  
affirmative act of revocation is required of the remaining tenant 3636  
by the entireties for the termination or nullification of the 3637  
transfer on death beneficiary designations to occur as described 3638  
in division (B)(7)(c) of this section. If the remaining tenant by 3639  
the entireties dies with no transfer on death beneficiary 3640  
designation, the entire interest of that remaining tenant shall be 3641  
distributed as part of the tenant's probate estate. 3642

(8) No rights of any lienholder, including, but not limited 3643  
to, any mortgagee, judgment creditor, or mechanic's lien holder, 3644  
shall be affected by the designation of a transfer on death 3645  
beneficiary pursuant to this section and section 5302.22 of the 3646  
Revised Code. If any lienholder takes action to enforce the lien, 3647  
by foreclosure or otherwise through a court proceeding, it is not 3648  
necessary to join ~~the~~ any transfer on death beneficiary as a party 3649  
defendant in the action unless the transfer on death beneficiary 3650  
has another interest in the real property ~~that is currently~~ 3651

vested. 3652

~~(8)~~(9) Any transfer on death of real property or of an 3653  
interest in real property that results from a deed transfer on 3654  
death designation affidavit designating a transfer on death 3655  
beneficiary is not testamentary. That transfer on death shall 3656  
supersede any attempted testate or intestate transfer of that real 3657  
property or interest in real property. 3658

(10) The execution and recording of a transfer on death 3659  
designation affidavit shall be effective to terminate the 3660  
designation of a transfer on death beneficiary in a transfer on 3661  
death deed involving the same real property or interest in real 3662  
property and recorded prior to the effective date of this section. 3663

(11) The execution and recording of a transfer on death 3664  
designation affidavit shall be effective to bar the vesting of any 3665  
rights of dower in a subsequent spouse of the owner of the real 3666  
property who executed that affidavit unless the affidavit is 3667  
revoked or changed. 3668

**Sec. 5302.24.** Sections 5302.22, 5302.222, and 5302.23 of the 3669  
Revised Code do not affect any deed that was executed and recorded 3670  
prior to the effective date of this section, or any transfer on 3671  
death beneficiary designation made, pursuant to section 5302.22 of 3672  
the Revised Code as it existed prior to the effective date of this 3673  
section. If that deed or designation is valid on the day prior to 3674  
the effective date of this section, the deed or designation 3675  
continues to be valid on and after the effective date of this 3676  
section. A grantee of that deed need not execute a transfer on 3677  
death designation affidavit that designates the same transfer on 3678  
death beneficiary or beneficiaries as in the deed unless the 3679  
grantee chooses to do so. 3680

**Sec. 5815.36.** (A) As used in this section: - 3681



(1) "Disclaimant" means any person, any guardian or personal representative of a person or estate of a person, or any attorney-in-fact or agent of a person having a general or specific authority to act granted in a written instrument, who is any of the following:

(a) With respect to testamentary instruments and intestate succession, an heir, next of kin, devisee, legatee, donee, person succeeding to a disclaimed interest, surviving joint tenant, surviving tenant by the entirety, surviving tenant of a tenancy with a right of survivorship, beneficiary under a testamentary instrument, or person designated to take pursuant to a power of appointment exercised by a testamentary instrument;

(b) With respect to nontestamentary instruments, a grantee, donee, person succeeding to a disclaimed interest, surviving joint tenant, surviving tenant by the entirety, surviving tenant of a tenancy with a right of survivorship, beneficiary under a nontestamentary instrument, or person designated to take pursuant to a power of appointment exercised by a nontestamentary instrument;

(c) With respect to fiduciary rights, privileges, powers, and immunities, a fiduciary under a testamentary or nontestamentary instrument. Division (A)(1)(c) of this section does not authorize a fiduciary who disclaims fiduciary rights, privileges, powers, and immunities to cause the rights of any beneficiary to be disclaimed unless the instrument creating the fiduciary relationship authorizes the fiduciary to make such a disclaimer.

(d) Any person entitled to take an interest in property upon the death of a person or upon the occurrence of any other event.

(2) "Personal representative" includes any fiduciary as defined in section 2109.01 of the Revised Code and any executor, trustee, guardian, or other person or entity having a fiduciary

relationship with regard to any interest in property passing to 3713  
the fiduciary, executor, trustee, guardian, or other person or 3714  
entity by reason of a disclaimant's death. 3715

(3) "Property" means all forms of property, real and 3716  
personal, tangible and intangible. 3717

(B)(1) A disclaimant, other than a fiduciary under an 3718  
instrument who is not authorized by the instrument to disclaim the 3719  
interest of a beneficiary, may disclaim, in whole or in part, the 3720  
succession to any property by executing and by delivering, filing, 3721  
or recording a written disclaimer instrument in the manner 3722  
provided in this section. 3723

(2) A disclaimant who is a fiduciary under an instrument may 3724  
disclaim, in whole or in part, any right, power, privilege, or 3725  
immunity, by executing and by delivering, filing, or recording a 3726  
written disclaimer instrument in the manner provided in this 3727  
section. 3728

(3) The written instrument of disclaimer shall be signed and 3729  
acknowledged by the disclaimant and shall contain all of the 3730  
following: 3731

(a) A reference to the donative instrument; 3732

(b) A description of the property, part of property, or 3733  
interest disclaimed, and of any fiduciary right, power, privilege, 3734  
or immunity disclaimed; 3735

(c) A declaration of the disclaimer and its extent. 3736

(4) The guardian of the estate of a minor or an incompetent, 3737  
or the personal representative of a deceased person, whether or 3738  
not authorized by the instrument to disclaim, with the consent of 3739  
the probate division of the court of common pleas may disclaim, in 3740  
whole or in part, the succession to any property, or interest in 3741  
property, that the ward, if an adult and competent, or the 3742

deceased, if living, might have disclaimed. The guardian or 3743  
personal representative, or any interested person may file an 3744  
application with the probate division of the court of common pleas 3745  
that has jurisdiction of the estate, asking that the court order 3746  
the guardian or personal representative to execute and deliver, 3747  
file, or record the disclaimer on behalf of the ward, estate, or 3748  
deceased person. The court shall order the guardian or personal 3749  
representative to execute and deliver, file, or record the 3750  
disclaimer if the court finds, upon hearing after notice to 3751  
interested parties and such other persons as the court shall 3752  
direct, that: 3753

(a) It is in the best interests of those interested in the 3754  
estate of the person and of those who will take the disclaimed 3755  
interest; 3756

(b) It would not materially, adversely affect the minor or 3757  
incompetent, or the beneficiaries of the estate of the decedent, 3758  
taking into consideration other available resources and the age, 3759  
probable life expectancy, physical and mental condition, and 3760  
present and reasonably anticipated future needs of the minor or 3761  
incompetent or the beneficiaries of the estate of the decedent. 3762

A written instrument of disclaimer ordered by the court under 3763  
this division shall be executed and be delivered, filed, or 3764  
recorded within the time and in the manner in which the person 3765  
could have disclaimed if the person were living, an adult, and 3766  
competent. 3767

(C) A partial disclaimer of property that is subject to a 3768  
burdensome interest created by the donative instrument is not 3769  
effective unless the disclaimed property constitutes a gift that 3770  
is separate and distinct from undisclaimed gifts. 3771

(D) The disclaimant shall deliver, file, or record the 3772  
disclaimer, or cause the same to be done, prior to accepting any 3773

benefits of the disclaimed interest and at any time after the 3774  
latest of the following dates: 3775

(1) The effective date of the donative instrument if both the 3776  
taker and the taker's interest in the property are finally 3777  
ascertained on that date; 3778

(2) The date of the occurrence of the event upon which both 3779  
the taker and the taker's interest in the property become finally 3780  
ascertainable; 3781

(3) The date on which the disclaimant attains eighteen years 3782  
of age or is no longer an incompetent, without tendering or 3783  
repaying any benefit received while the disclaimant was under 3784  
eighteen years of age or an incompetent, and even if a guardian of 3785  
a minor or incompetent had filed an application pursuant to 3786  
division (B)(4) of this section and the probate division of the 3787  
court of common pleas involved did not consent to the guardian 3788  
executing a disclaimer. 3789

(E) No disclaimer instrument is effective under this section 3790  
if either of the following applies under the terms of the 3791  
disclaimer instrument: 3792

(1) The disclaimant has power to revoke the disclaimer. 3793

(2) The disclaimant may transfer, or direct to be 3794  
transferred, to self the entire legal and equitable ownership of 3795  
the property subject to the disclaimer instrument. 3796

(F)(1) Subject to division (F)(2) of this section, if the 3797  
interest disclaimed is created by a nontestamentary instrument, 3798  
including, but not limited to, a transfer on death designation 3799  
affidavit pursuant to section 5302.22 of the Revised Code, the 3800  
disclaimer instrument shall be delivered personally or by 3801  
certified mail to the trustee or other person who has legal title 3802  
to, or possession of, the property disclaimed. If the interest 3803  
disclaimed is created by a transfer on death designation affidavit 3804

pursuant to section 5302.22 of the Revised Code, the disclaimer 3805  
instrument shall be filed with the county recorder of the county 3806  
in which the real property that is the subject of that affidavit 3807  
is located. 3808

(2) If the interest disclaimed is created by a testamentary 3809  
instrument, by intestate succession, ~~by a transfer on death deed~~ 3810  
~~pursuant to section 5302.22 of the Revised Code,~~ or by a 3811  
certificate of title to a motor vehicle, watercraft, or outboard 3812  
motor that evidences ownership of the motor vehicle, watercraft, 3813  
or outboard motor that is transferable on death pursuant to 3814  
section 2131.13 of the Revised Code, the disclaimer instrument 3815  
shall be filed in the probate division of the court of common 3816  
pleas in the county in which proceedings for the administration of 3817  
the decedent's estate have been commenced, and an executed copy of 3818  
the disclaimer instrument shall be delivered personally or by 3819  
certified mail to the personal representative of the decedent's 3820  
estate. 3821

(3) If no proceedings for the administration of the 3822  
decedent's estate have been commenced, the disclaimer instrument 3823  
shall be filed in the probate division of the court of common 3824  
pleas in the county in which proceedings for the administration of 3825  
the decedent's estate might be commenced according to law. The 3826  
disclaimer instrument shall be filed and indexed, and fees 3827  
charged, in the same manner as provided by law for an application 3828  
to be appointed as personal representative to administer the 3829  
decedent's estate. The disclaimer is effective whether or not 3830  
proceedings thereafter are commenced to administer the decedent's 3831  
estate. If proceedings thereafter are commenced for the 3832  
administration of the decedent's estate, they shall be filed 3833  
under, or consolidated with, the case number assigned to the 3834  
disclaimer instrument. 3835

(4) If an interest in real estate is disclaimed, an executed 3836

copy of the disclaimer instrument also shall be recorded in the 3837  
office of the recorder of the county in which the real estate is 3838  
located. The disclaimer instrument shall include a description of 3839  
the real estate with sufficient certainty to identify it, and 3840  
shall contain a reference to the record of the instrument that 3841  
created the interest disclaimed. If title to the real estate is 3842  
registered under Chapters 5309. and 5310. of the Revised Code, the 3843  
disclaimer interest shall be entered as a memorial on the last 3844  
certificate of title. A spouse of a disclaimant has no dower or 3845  
other interest in the real estate disclaimed. 3846

(G) If a donative instrument expressly provides for the 3847  
distribution of property, part of property, or interest in 3848  
property if there is a disclaimer, the property, part of property, 3849  
or interest disclaimed shall be distributed or disposed of, and 3850  
accelerated or not accelerated, in accordance with the donative 3851  
instrument. In the absence of express provisions to the contrary 3852  
in the donative instrument, the property, part of property, or 3853  
interest in property disclaimed, and any future interest that is 3854  
to take effect in possession or enjoyment at or after the 3855  
termination of the interest disclaimed, shall descend, be 3856  
distributed, or otherwise be disposed of, and shall be 3857  
accelerated, in the following manner: 3858

(1) If intestate or testate succession is disclaimed, as if 3859  
the disclaimant had predeceased the decedent; 3860

(2) If the disclaimant is one designated to take pursuant to 3861  
a power of appointment exercised by a testamentary instrument, as 3862  
if the disclaimant had predeceased the donee of the power; 3863

(3) If the donative instrument is a nontestamentary 3864  
instrument, as if the disclaimant had died before the effective 3865  
date of the nontestamentary instrument; 3866

(4) If the disclaimer is of a fiduciary right, power, 3867

privilege, or immunity, as if the right, power, privilege, or 3868  
immunity was never in the donative instrument. 3869

(H) A disclaimer pursuant to this section is effective as of, 3870  
and relates back for all purposes to, the date upon which the 3871  
taker and the taker's interest have been finally ascertained. 3872

(I) A disclaimant who has a present and future interest in 3873  
property, and disclaims the disclaimant's present interest in 3874  
whole or in part, is considered to have disclaimed the 3875  
disclaimant's future interest to the same extent, unless a 3876  
contrary intention appears in the disclaimer instrument or the 3877  
donative instrument. A disclaimant is not precluded from 3878  
receiving, as an alternative taker, a beneficial interest in the 3879  
property disclaimed, unless a contrary intention appears in the 3880  
disclaimer instrument or in the donative instrument. 3881

(J) The disclaimant's right to disclaim under this section is 3882  
barred if the disclaimant does any of the following: 3883

(1) Assigns, conveys, encumbers, pledges, or transfers, or 3884  
contracts to assign, convey, encumber, pledge, or transfer, the 3885  
property or any interest in it; 3886

(2) Waives in writing the disclaimant's right to disclaim and 3887  
executes and delivers, files, or records the waiver in the manner 3888  
provided in this section for a disclaimer instrument; 3889

(3) Accepts the property or an interest in it; 3890

(4) Permits or suffers a sale or other disposition of the 3891  
property pursuant to judicial action against the disclaimant. 3892

(K) Neither a fiduciary's application for appointment or 3893  
assumption of duties as a fiduciary nor a beneficiary's 3894  
application for appointment as a personal representative or 3895  
fiduciary waives or bars the disclaimant's right to disclaim a 3896  
right, power, privilege, or immunity as a personal representative 3897

or fiduciary or the beneficiary's right to disclaim property. 3898

(L) The right to disclaim under this section exists 3899  
irrespective of any limitation on the interest of the disclaimant 3900  
in the nature of a spendthrift provision or similar restriction. 3901

(M) A disclaimer instrument or written waiver of the right to 3902  
disclaim that has been executed and delivered, filed, or recorded 3903  
as required by this section is final and binding upon all persons. 3904

(N) The right to disclaim and the procedures for disclaimer 3905  
established by this section are in addition to, and do not exclude 3906  
or abridge, any other rights or procedures that exist or formerly 3907  
existed under any other section of the Revised Code or at common 3908  
law to assign, convey, release, refuse to accept, renounce, waive, 3909  
or disclaim property. 3910

(O)(1) No person is liable for distributing or disposing of 3911  
property in a manner inconsistent with the terms of a valid 3912  
disclaimer if the distribution or disposition is otherwise proper 3913  
and the person has no actual knowledge of the disclaimer. 3914

(2) No person is liable for distributing or disposing of 3915  
property in reliance upon the terms of a disclaimer that is 3916  
invalid because the right of disclaimer has been waived or barred 3917  
if the distribution or disposition is otherwise proper and the 3918  
person has no actual knowledge of the facts that constitute a 3919  
waiver or bar to the right to disclaim. 3920

(P)(1) A disclaimant may disclaim pursuant to this section 3921  
any interest in property that is in existence on September 27, 3922  
1976, if either the interest in the property or the taker of the 3923  
interest in the property is not finally ascertained on that date. 3924

(2) No disclaimer executed pursuant to this section destroys 3925  
or diminishes an interest in property that exists on September 27, 3926  
1976, in any person other than the disclaimant. 3927



(Q) This section may be applied separately to different 3928  
interests or powers created in the disclaimant by the same 3929  
testamentary or nontestamentary instrument. 3930

**Section 2.** That existing sections 317.114, 1321.51, 1321.522, 3931  
1321.53, 1321.531, 1321.532, 1321.533, 1321.535, 1321.54, 1321.55, 3932  
1321.59, 1322.01, 1322.02, 1322.022, 1322.023, 1322.03, 1322.031, 3933  
1322.04, 1322.041, 1322.062, 1322.07, 1322.074, 1322.10, 1322.99, 3934  
1343.011, 1345.01, 1345.05, 1345.09, 1349.31, 1349.43, 1541.083, 3935  
1733.252, 5302.01, 5302.02, 5302.22, 5302.221, 5302.23, and 3936  
5815.36 of the Revised Code are hereby repealed. 3937

**Section 3.** That Section 745.60 of Am. Sub. H.B. 1 of the 3938  
128th General Assembly be amended to read as follows: 3939

**Sec. 745.60.** (A) Sections 1321.20, 1321.51, 1321.52, 3940  
1321.521, 1321.522, 1321.53, 1321.531, 1321.532, 1321.533, 3941  
1321.534, 1321.535, 1321.536, 1321.54, 1321.55, 1321.551, 3942  
1321.552, 1321.57, 1321.59, 1321.591, 1321.592, 1321.593, 3943  
1321.594, 1321.60, 1321.99, 1322.01, 1322.02, 1322.022, 1322.023, 3944  
1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 1322.041, 1322.05, 3945  
1322.051, 1322.052, 1322.06, 1322.061, 1322.062, 1322.063, 3946  
1322.064, 1322.065, 1322.07, 1322.071, 1322.072, 1322.074, 3947  
1322.075, 1322.08, 1322.081, 1322.09, 1322.10, 1322.11, 1322.99, 3948  
1343.011, 1345.01, 1345.05, 1345.09, 1349.31, and 1349.43, 3949  
~~1733.252, and 1733.26~~ of the Revised Code, as amended or enacted 3950  
by ~~this act~~ Am. Sub. H.B. 1 of the 128th General Assembly, shall 3951  
apply on and after January 1, 2010, unless otherwise provided in 3952  
this section. 3953

(B)(1) The Division of Financial Institutions shall begin 3954  
accepting applications for a mortgage loan originator license, and 3955  
applications for an exemption from registration under sections 3956  
1321.51 to 1321.60 or 1322.01 to 1322.12 of the Revised Code, on 3957

~~the effective date of this section October 16, 2009.~~ 3958

(2) In order to continue to operate as an exempt entity, any 3959  
credit union service organization in operation as of January 1, 3960  
2010, that seeks exemption from registration under sections 3961  
1321.51 to 1321.60 of the Revised Code shall obtain a valid letter 3962  
of exemption issued by the Superintendent of Financial 3963  
Institutions not later than July 1, 2010. Any person performing 3964  
the duties of a mortgage loan originator as of January 1, 2010, 3965  
shall obtain a mortgage loan originator license from the Division 3966  
not later than January 1, 2011, in order to continue to perform 3967  
those duties. 3968

(3) In order to continue to operate as an exempt entity, any 3969  
mortgage banker or credit union service organization in operation 3970  
as of January 1, 2010, that seeks exemption from registration 3971  
under sections 1322.01 to 1322.12 of the Revised Code shall obtain 3972  
a valid letter of exemption issued by the Superintendent not later 3973  
than May 1, 2010. Any individual who, as of January 1, 2010, 3974  
performs the duties of a loan originator and is employed by or 3975  
associated with any person or entity listed in division (G)(2) of 3976  
section 1322.01 of the Revised Code shall obtain a loan originator 3977  
license from the Superintendent not later than May 1, 2010, in 3978  
order to continue to perform those duties. 3979

(C) Individuals holding a valid mortgage lender certificate 3980  
of registration, mortgage broker certificate of registration, or 3981  
loan officer license as of January 1, 2010, shall not be required 3982  
to be in compliance with the sections described in division (A) of 3983  
this section until the first renewal of that certificate or 3984  
license after that date. 3985

(D) Sections 1733.252 and 1733.26 of the Revised Code, as 3986  
amended or enacted by Am. Sub. H.B. 1 of the 128th General 3987  
Assembly, shall apply on and after January 1, 2011. 3988

**Section 4.** That existing Section 745.60 of Am. Sub. H.B. 1 of the 128th General Assembly is hereby repealed.

**Section 5.** (A) Sections 1321.51, 1321.522, 1321.53, 1321.531, 1321.532, 1321.533, 1321.535, 1321.54, 1321.55, 1321.59, 1322.01, 1322.02, 1322.022, 1322.023, 1322.03, 1322.031, 1322.04, 1322.041, 1322.062, 1322.07, 1322.074, 1322.10, 1322.99, 1343.011, 1345.01, 1345.05, 1345.09, 1349.31, and 1349.43 of the Revised Code, as amended by this act, shall apply on and after January 1, 2010.

(B) Section 1733.252 of the Revised Code, as amended by this act, shall apply on and after January 1, 2011.

**Section 6.** A prosecuting attorney or treasurer of a county with a population greater than eight hundred thousand but less than nine hundred thousand may determine that the amount of money appropriated to the respective office from the county Delinquent Tax and Assessment Collection Fund under division (A) of section 321.261 of the Revised Code exceeds the amount required to be used by that office as prescribed by division (A)(1) of that section. If a prosecuting attorney or treasurer of a county with that population makes such a determination, the prosecuting attorney or treasurer may expend up to fifty per cent of the excess so determined to pay the expenses of operating the respective office that otherwise would be payable from appropriations from the county general fund, notwithstanding section 321.261 of the Revised Code.

This section expires December 31, 2011.

**Section 7.** This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that this act makes changes to the sections amended or enacted by Am.

Sub. H.B. 1 of the 128th General Assembly in the implementation of 4018  
the federal Secure and Fair Enforcement for Mortgage Licensing Act 4019  
of 2008 ("S.A.F.E. Act"), and those sections apply on and after 4020  
January 1, 2010. Therefore, this act shall go into immediate 4021  
effect. 4022

**Section 8.** The Governor is hereby authorized to execute a 4023  
release of reversionary interest in the name of the state 4024  
releasing the state's reversionary interest retained in the 4025  
Governor's Deed dated August 2, 1978, and authorized by Sub. H.B. 4026  
489 of the 108th General Assembly. That deed was recorded on June 4027  
29, 1979, at Deed Volume 248, Page 193 in the records of the 4028  
Auglaize County Recorder and was a corrective deed to a Governor's 4029  
Deed dated November 20, 1969, which was recorded on January 20, 4030  
1970, at Deed Volume 207, Page 157 in the records of the Auglaize 4031  
County Recorder. The reversionary interest retained by the state 4032  
in these deeds provided for the real estate to revert to the state 4033  
if the real estate ceased to be used for youth recreation center 4034  
purposes or related civic purposes. 4035

The Auditor of State, with the assistance of the Attorney 4036  
General, shall prepare a release of reversionary interest to the 4037  
real estate described in this section. The release shall be 4038  
executed by the Governor in the name of the state, countersigned 4039  
by the Secretary of State, sealed with the Great Seal of the 4040  
State, presented in the office of the Auditor of State for 4041  
recording, and delivered to the Wapakoneta Family Young Men's 4042  
Christian Association, Inc. The Wapakoneta Family Young Men's 4043  
Christian Association, Inc., shall present the release for 4044  
recording in the office of the Auglaize County Recorder. 4045