

As Reported by the House Civil and Commercial Law Committee

128th General Assembly

Regular Session

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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

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A B I L L

To amend sections 317.114, 321.24, 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, 1733.252, 5302.01, 5302.02, 7
5302.22, 5302.221, 5302.23, 5717.01, 5717.011, 8
5717.02, 5717.04, and 5815.36, to enact sections 9
5302.222, 5302.24, 5703.021, and 5703.81 of the 10
Revised Code, and to amend Section 745.60 of Am. 11
Sub. H.B. 1 of the 128th General Assembly to 12
change the transfer on death (TOD) designation 13
instrument from a deed to an affidavit, to allow 14
real property owners holding title in survivorship 15
tenancy to execute such an affidavit, to clarify 16
the status of a trustee of a trust as a TOD 17
beneficiary and the dower rights of the spouse of 18
the property owner, to make other changes 19
pertaining to the transfer on death of real 20

property, to modify the mortgage lending laws, to 21
establish a Small Claims Division of the Board of 22
Tax Appeals and criteria for appeals to qualify to 23
be heard in the Division, to create the Tax 24
Appeals Administration Fund in the State Treasury 25
by earmarking for the Board of Tax Appeals a 26
portion of the state reimbursement to local taxing 27
units for the 10% real property tax rollback, to 28
temporarily authorize a treasurer or prosecuting 29
attorney of a county with a population of more 30
than 800,000 but less than 900,000 to designate 31
that part of any surplus balance in the county's 32
Delinquent Tax and Assessment Collection Fund be 33
used to pay operating expenses of the respective 34
office in lieu of county general fund money, to 35
allow a county recorder to accept for filing 36
certain nonconforming documents without charging 37
the fees otherwise required to be collected for 38
nonconforming documents, and to declare an 39
emergency. 40

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

Section 1. That sections 317.114, 321.24, 1321.51, 1321.522, 41
1321.53, 1321.531, 1321.532, 1321.533, 1321.535, 1321.54, 1321.55, 42
1321.59, 1322.01, 1322.02, 1322.022, 1322.023, 1322.03, 1322.031, 43
1322.04, 1322.041, 1322.062, 1322.07, 1322.074, 1322.10, 1322.99, 44
1343.011, 1345.01, 1345.05, 1345.09, 1349.31, 1349.43, 1733.252, 45
5302.01, 5302.02, 5302.22, 5302.221, 5302.23, 5717.01, 5717.011, 46
5717.02, 5717.04, and 5815.36 be amended and sections 5302.222, 47
5302.24, 5703.021, and 5703.81 of the Revised Code be enacted to 48
read as follows: 49

Sec. 317.114. (A) Except as otherwise provided in ~~division~~ 50
~~divisions~~ (B) and (C) of this section, an instrument or document 51
presented for recording to the county recorder shall have been 52
prepared in accordance with all of the following requirements: 53

(1) ~~Print~~ Legible print size not smaller than a ~~computer~~ font 54
size of ten; 55

(2) Minimum paper size of eight and one-half inches by eleven 56
inches; 57

(3) Maximum paper size of eight and one-half inches by 58
fourteen inches; 59

(4) Black or blue ink only; 60

(5) No use of highlighting; 61

(6) Margins of one-inch width on each side of each page of 62
the instrument or document; 63

(7) A margin of one-inch width across the bottom of each page 64
of the instrument or document; 65

(8) A three-inch margin of blank space across the top of the 66
first page of each instrument or document to accommodate any 67
certification or indorsement of the county engineer, county 68
auditor, or county recorder, as may be required by law, with the 69
right half of that margin being reserved for the indorsement of 70
the county recorder required by section 317.12 of the Revised 71
Code; and 72

(9) A one and one-half-inch margin of blank space across the 73
top of each of the remaining pages of the instrument or document 74
to accommodate any certification or indorsement of the county 75
engineer, county auditor, or county recorder, as may be required 76
by law. 77

The (B)(1) Except as otherwise provided in division (B)(2) of 78

this section, the county recorder shall accept for recording an 79
instrument or document that does not conform to the foregoing 80
requirements set forth in division (A) of this section but shall 81
charge and collect the following additional fees for each such 82
instrument or document: an additional base fee for the recorder's 83
services of ten dollars and a housing trust fund fee of ten 84
dollars, which shall be collected pursuant to section 317.36 of 85
the Revised Code. 86

(2) The county recorder shall accept for recording an 87
instrument or document that does not conform to the requirements 88
set forth in division (A) of this section but shall not charge and 89
collect the additional fees specified in division (B)(1) of this 90
section for page numbers, hand-written, typed, or printed 91
initials, bar codes, copyright information, trailing portions of 92
signatures, plat description of any oil and gas well location or 93
drilling unit or lease, or any other incidental information that 94
is not essential to the recording process or to the legal validity 95
of the instrument or document and that may appear in either of the 96
side margins or in the bottom margin. In addition, notary stamps 97
and seals and any signatures and initials that may appear within 98
the instrument or document need not satisfy the font size 99
requirement and no additional fees may be charged or collected by 100
the county recorder for such a nonconformance. 101

~~(B)~~(C) This section does not apply to any of the following: 102

(1) Any document that originates with any court or taxing 103
authority; 104

(2) Any document authorized to be recorded under section 105
317.24 of the Revised Code; 106

(3) Any plat, as defined in section 711.001 of the Revised 107
Code, that is required or authorized by the Revised Code to be 108
recorded; 109

(4) Any document authorized to be recorded that originates 110
from any state or federal agency; 111

(5) Any document executed before ~~the effective date of this~~ 112
~~section~~ July 1, 2009. 113

Sec. 321.24. (A) On or before the fifteenth day of February, 114
in each year, the county treasurer shall settle with the county 115
auditor for all taxes and assessments that the treasurer has 116
collected on the general duplicate of real and public utility 117
property at the time of making the settlement. If the county 118
treasurer has made or will make advance payments to the several 119
taxing districts of current year unpaid taxes under section 120
321.341 of the Revised Code before collecting them, the county 121
treasurer shall take the advance payments into account for 122
purposes of the settlement with the county auditor under this 123
division. 124

(B) On or before the thirtieth day of June, in each year, the 125
treasurer shall settle with the auditor for all advance payments 126
of general personal and classified property taxes that the 127
treasurer has received at the time of making the settlement. 128

(C) On or before the tenth day of August, in each year, the 129
treasurer shall settle with the auditor for all taxes and 130
assessments that the treasurer has collected on the general 131
duplicates of real and public utility property at the time of 132
making such settlement, not included in the preceding February 133
settlement. If the county treasurer has made or will make advance 134
payments to the several taxing districts of the current year 135
delinquent taxes under section 321.341 of the Revised Code before 136
collecting them, the county treasurer shall take the advance 137
payments into account for purposes of the settlement with the 138
county auditor under this division. 139

(D) On or before the thirty-first day of October, in each 140

year, the treasurer shall settle with the auditor for all taxes 141
that the treasurer has collected on the general personal and 142
classified property duplicates, and for all advance payments of 143
general personal and classified property taxes, not included in 144
the preceding June settlement, that the treasurer has received at 145
the time of making such settlement. 146

(E) In the event the time for the payment of taxes is 147
extended, pursuant to section 323.17 of the Revised Code, the date 148
on or before which settlement for the taxes so extended must be 149
made, as herein prescribed, shall be deemed to be extended for a 150
like period of time. At each such settlement, the auditor shall 151
allow to the treasurer, on the moneys received or collected and 152
accounted for by the treasurer, the treasurer's fees, at the rate 153
or percentage allowed by law, at a full settlement of the 154
treasurer. 155

(F) Within thirty days after the day of each settlement of 156
taxes required under divisions (A) and (C) of this section, the 157
treasurer shall certify to the tax commissioner any adjustments 158
that have been made to the amount certified previously pursuant to 159
section 319.302 of the Revised Code and that the settlement has 160
been completed. Upon receipt of such certification, the 161
commissioner shall provide for payment to the county treasurer 162
from the general revenue fund of an amount equal to one-half of 163
the amount certified by the treasurer in the preceding tax year 164
under section 319.302 of the Revised Code, less one-half of the 165
amount computed for all taxing districts in that county for the 166
current fiscal year under ~~section~~ sections 5703.80 and 5703.81 of 167
the Revised Code for crediting to the property tax administration 168
fund and the tax appeals administration fund. Such payment shall 169
be credited upon receipt to the county's undivided income tax 170
fund, and the county auditor shall transfer to the county general 171
fund from the amount thereof the total amount of all fees and 172

charges which the auditor and treasurer would have been authorized 173
to receive had such section not been in effect and that amount had 174
been levied and collected as taxes. The county auditor shall 175
distribute the amount remaining among the various taxing districts 176
in the county as if it had been levied, collected, and settled as 177
real property taxes. The amount distributed to each taxing 178
district shall be reduced by the total of the amounts computed for 179
the district under section 5703.80 of the Revised Code, but the 180
reduction shall not exceed the amount that otherwise would be 181
distributed to the taxing district under this division. The tax 182
commissioner shall make available to taxing districts such 183
information as is sufficient for a taxing district to be able to 184
determine the amount of the reduction in its distribution under 185
this section. 186

(G)(1) Within thirty days after the day of the settlement 187
required in division (D) of this section, the county treasurer 188
shall notify the tax commissioner that the settlement has been 189
completed. Upon receipt of that notification, the commissioner 190
shall provide for payment to the county treasurer from the general 191
revenue fund of an amount equal to the amount certified under 192
former section 319.311 of the Revised Code and paid in the state's 193
fiscal year 2003 multiplied by the percentage specified in 194
division (G)(2) of this section. The payment shall be credited 195
upon receipt to the county's undivided income tax fund, and the 196
county auditor shall distribute the amount thereof among the 197
various taxing districts of the county as if it had been levied, 198
collected, and settled as personal property taxes. The amount 199
received by a taxing district under this division shall be 200
apportioned among its funds in the same proportion as the current 201
year's personal property taxes are apportioned. 202

(2) Payments required under division (G)(1) of this section 203
shall be made at the following percentages of the amount certified 204

under former section 319.311 of the Revised Code and paid under	205
division (G)(1) of this section in the state's fiscal year 2003:	206
(a) In fiscal year 2004, ninety per cent;	207
(b) In fiscal year 2005, eighty per cent;	208
(c) In fiscal year 2006, sixty-four per cent;	209
(d) In fiscal year 2007, forty per cent;	210
(e) In fiscal year 2008, thirty-two per cent;	211
(f) In fiscal year 2009, sixteen per cent.	212
After fiscal year 2009, no payments shall be made under	213
division (G)(1) of this section.	214
(H)(1) On or before the fifteenth day of April each year, the	215
county treasurer shall settle with the county auditor for all	216
manufactured home taxes that the county treasurer has collected on	217
the manufactured home tax duplicate at the time of making the	218
settlement.	219
(2) On or before the fifteenth day of September each year,	220
the county treasurer shall settle with the county auditor for all	221
remaining manufactured home taxes that the county treasurer has	222
collected on the manufactured home tax duplicate at the time of	223
making the settlement.	224
(3) If the time for payment of such taxes is extended under	225
section 4503.06 of the Revised Code, the time for making the	226
settlement as prescribed by divisions (H)(1) and (2) of this	227
section is extended for a like period of time.	228
(I) On or before the second Monday in September of each year,	229
the county treasurer shall certify to the tax commissioner the	230
total amount by which the manufactured home taxes levied in that	231
year were reduced pursuant to section 319.302 of the Revised Code.	232
Within ninety days after the receipt of such certification, the	233
commissioner shall provide for payment to the county treasurer	234

from the general revenue fund of an amount equal to the amount 235
certified by the treasurer. Such payment shall be credited upon 236
receipt to the county's undivided income tax fund, and the county 237
auditor shall transfer to the county general fund from the amount 238
thereof the total amount of all fees and charges that the auditor 239
and treasurer would have been authorized to receive had such 240
section not been in effect and that amount had been levied and 241
collected as manufactured home taxes. The county auditor shall 242
distribute the amount remaining among the various taxing districts 243
in the county as if it had been levied, collected, and settled as 244
manufactured home taxes. 245

Sec. 1321.51. As used in sections 1321.51 to 1321.60 of the 246
Revised Code: 247

(A) "Person" means an individual, partnership, association, 248
trust, corporation, or any other legal entity. 249

(B) "Certificate" means a certificate of registration issued 250
under sections 1321.51 to 1321.60 of the Revised Code. 251

(C) "Registrant" means a person to whom one or more 252
certificates of registration have been issued under sections 253
1321.51 to 1321.60 of the Revised Code. 254

(D) "Principal amount" means the amount of cash paid to, or 255
paid or payable for the account of, the borrower, and includes any 256
charge, fee, or expense that is financed by the borrower at 257
origination of the loan or during the term of the loan. 258

(E) "Interest" means all charges payable directly or 259
indirectly by a borrower to a registrant as a condition to a loan 260
or an application for a loan, however denominated, but does not 261
include default charges, deferment charges, insurance charges or 262
premiums, court costs, loan origination charges, check collection 263
charges, credit line charges, points, prepayment penalties, or 264

other fees and charges specifically authorized by law. 265

(F) "Interest-bearing loan" means a loan in which the debt is 266
expressed as the principal amount and interest is computed, 267
charged, and collected on unpaid principal balances outstanding 268
from time to time. 269

(G) "Precomputed loan" means a loan in which the debt is a 270
sum comprising the principal amount and the amount of interest 271
computed in advance on the assumption that all scheduled payments 272
will be made when due. 273

(H) "Actuarial method" means the method of allocating 274
payments made on a loan between the principal amount and interest 275
whereby a payment is applied first to the accumulated interest and 276
the remainder to the unpaid principal amount. 277

(I) "Applicable charge" means the amount of interest 278
attributable to each monthly installment period of the loan 279
contract. The applicable charge is computed as if each installment 280
period were one month and any charge for extending the first 281
installment period beyond one month is ignored. In the case of 282
loans originally scheduled to be repaid in sixty-one months or 283
less, the applicable charge for any installment period is that 284
proportion of the total interest contracted for, as the balance 285
scheduled to be outstanding during that period bears to the sum of 286
all of the periodic balances, all determined according to the 287
payment schedule originally contracted for. In all other cases, 288
the applicable charge for any installment period is that which 289
would have been made for such period had the loan been made on an 290
interest-bearing basis, based upon the assumption that all 291
payments were made according to schedule. 292

(J) "Broker" means a person who acts as an intermediary or 293
agent in finding, arranging, or negotiating loans, other than 294
residential mortgage loans, and charges or receives a fee for 295

these services.	296
(K) "Annual percentage rate" means the ratio of the interest	297
on a loan to the unpaid principal balances on the loan for any	298
period of time, expressed on an annual basis.	299
(L) "Point" means a charge equal to one per cent of either of	300
the following:	301
(1) The principal amount of a precomputed loan or	302
interest-bearing loan;	303
(2) The original credit line of an open-end loan.	304
(M) "Prepayment penalty" means a charge for prepayment of a	305
loan at any time prior to five years from the date the loan	306
contract is executed.	307
(N) "Refinancing" means a loan the proceeds of which are used	308
in whole or in part to pay the unpaid balance of a prior loan made	309
by the same registrant to the same borrower under sections 1321.51	310
to 1321.60 of the Revised Code.	311
(O) "Superintendent of financial institutions" includes the	312
deputy superintendent for consumer finance as provided in section	313
1181.21 of the Revised Code.	314
(P)(1) "Mortgage loan originator" means an individual who for	315
compensation or gain, or in anticipation of compensation or gain,	316
does any of the following:	317
(a) Takes or offers to take a residential mortgage loan	318
application;	319
(b) Assists or offers to assist a borrower in obtaining or	320
applying to obtain a residential mortgage loan by, among other	321
things, advising on loan terms, including rates, fees, and other	322
costs;	323
(c) Offers or negotiates terms of a residential mortgage	324
loan;	325

(d) Issues or offers to issue a commitment for a residential mortgage loan to a borrower.	326 327
(2) "Mortgage loan originator" does not include any of the following:	328 329
(a) An individual who performs purely administrative or clerical tasks on behalf of a mortgage loan originator;	330 331
(b) A person licensed pursuant to Chapter 4735. of the Revised Code, or under the similar law of another state, who performs only real estate brokerage activities permitted by that license, provided the person is not compensated by a mortgage lender, mortgage broker, mortgage loan originator, or by any agent thereof;	332 333 334 335 336 337
(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;	338 339 340
(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;	341 342 343 344 345 346
(e) A loan originator licensed under sections 1322.01 to 1322.12 of the Revised Code, when acting solely under that authority;	347 348 349
(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;	350 351 352 353 354
(g) Any person engaged in the retail sale of manufactured	355

homes, mobile homes, or industrialized units if, in connection 356
with financing those retail sales, the person only assists the 357
borrower by providing or transmitting the loan application and 358
does not do any of the following: 359

(i) Offer or negotiate the residential mortgage loan rates or 360
terms; 361

(ii) Provide any counseling with borrowers about residential 362
mortgage loan rates or terms; 363

(iii) Receive any payment or fee from any company or 364
individual for assisting the borrower obtain or apply for 365
financing to purchase the manufactured home, mobile home, or 366
industrialized unit; 367

(iv) Assist the borrower in completing the residential 368
mortgage loan application. 369

(3) An individual acting exclusively as a servicer engaging 370
in loss mitigation efforts with respect to existing mortgage 371
transactions shall not be considered a mortgage loan originator 372
for purposes of sections 1321.51 to 1321.60 of the Revised Code 373
until July 1, 2011, unless such delay is denied by the United 374
States department of housing and urban development. 375

(Q) "Residential mortgage loan" means any loan primarily for 376
personal, family, or household use that is secured by a mortgage, 377
deed of trust, or other equivalent consensual security interest on 378
a dwelling or on residential real estate upon which is constructed 379
or intended to be constructed a dwelling. For purposes of this 380
division, "dwelling" has the same meaning as in the "Truth in 381
Lending Act," 82 Stat. 146, 15 U.S.C. 1602. 382

(R) "Nationwide mortgage licensing system and registry" means 383
a mortgage licensing system developed and maintained by the 384
conference of state bank supervisors and the American association 385
of residential mortgage regulators, or their successor entities, 386

for the licensing and registration of mortgage loan originators, 387
or any system established by the secretary of housing and urban 388
development pursuant to the "Secure and Fair Enforcement for 389
Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101. 390

(S) "Registered mortgage loan originator" means an individual 391
to whom both of the following apply: 392

(1) The individual is a mortgage loan originator and an 393
employee of a depository institution, a subsidiary that is owned 394
and controlled by a depository institution and regulated by a 395
federal banking agency, or an institution regulated by the farm 396
credit administration. 397

(2) The individual is registered with, and maintains a unique 398
identifier through, the nationwide mortgage licensing system and 399
registry. 400

(T) "Administrative or clerical tasks" means the receipt, 401
collection, and distribution of information common for the 402
processing or underwriting of a loan in the mortgage industry, and 403
communication with a consumer to obtain information necessary for 404
the processing or underwriting of a residential mortgage loan. 405

(U) "Federal banking agency" means the board of governors of 406
the federal reserve system, the comptroller of the currency, the 407
director of the office of thrift supervision, the national credit 408
union administration, and the federal deposit insurance 409
corporation. 410

(V) "Loan processor or underwriter" means an individual who 411
performs clerical or support duties at the direction of and 412
subject to the supervision and instruction of a licensed mortgage 413
loan originator or registered mortgage loan originator. For 414
purposes of this division, to "perform clerical or support duties" 415
includes means to do all of the following activities: 416

(1) ~~The receipt~~ Receiving, ~~collection~~ collecting, 417

~~distribution~~ distributing, and ~~analysis of~~ analyzing information 418
common for the processing or underwriting of a residential 419
mortgage loan; 420

(2) Communicating with a borrower to obtain the information 421
necessary for the processing or underwriting of a loan, to the 422
extent the communication does not include offering or negotiating 423
loan rates or terms or counseling borrowers about residential 424
mortgage loan rates or terms. 425

(W) "Real estate brokerage activity" means any activity that 426
involves offering or providing real estate brokerage services to 427
the public, including all of the following: 428

(1) Acting as a real estate agent or real estate broker for a 429
buyer, seller, lessor, or lessee of real property; 430

(2) Bringing together parties interested in the sale, 431
purchase, lease, rental, or exchange of real property; 432

(3) Negotiating, on behalf of any party, any portion of a 433
contract relating to the sale, purchase, lease, rental, or 434
exchange of real property, other than in connection with providing 435
financing for any such transaction; 436

(4) Engaging in any activity for which a person engaged in 437
that activity is required to be registered or licensed as a real 438
estate agent or real estate broker under any applicable law; 439

(5) Offering to engage in any activity, or to act in any 440
capacity, described in division (W) of this section. 441

(X) "Licensee" means any person that has been issued a 442
mortgage loan originator license under sections 1321.51 to 1321.60 443
of the Revised Code. 444

(Y) "Unique identifier" means a number or other identifier 445
that permanently identifies a mortgage loan originator and is 446
assigned by protocols established by the nationwide mortgage 447

licensing system and registry or federal banking agencies to 448
facilitate electronic tracking of mortgage loan originators and 449
uniform identification of, and public access to, the employment 450
history of and the publicly adjudicated disciplinary and 451
enforcement actions against mortgage loan originators. 452

(Z) "State" in the context of referring to states in addition 453
to Ohio means any state of the United States, the district of 454
Columbia, any territory of the United States, Puerto Rico, Guam, 455
American Samoa, the trust territory of the Pacific islands, the 456
virgin islands, and the northern Mariana islands. 457

(AA) "Depository institution" has the same meaning as in 458
section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 459
U.S.C. 1813, and includes any credit union. 460

(BB) "Bona fide third party" means a person that is not an 461
employee of, related to, or affiliated with, the registrant, and 462
that is not used for the purpose of circumvention or evasion of 463
sections 1321.51 to 1321.60 of the Revised Code. 464

(CC) "Nontraditional mortgage product" means any mortgage 465
product other than a thirty-year fixed rate mortgage. 466

(DD) "Employee" means an individual for whom a registrant or 467
applicant, in addition to providing a wage or salary, pays social 468
security and unemployment taxes, provides workers' compensation 469
coverage, and withholds local, state, and federal income taxes. 470
"Employee" also includes any individual who acts as a mortgage 471
loan originator or operations manager of the registrant, but for 472
whom the registrant is prevented by law from making income tax 473
withholdings. 474

(EE) "Primary point of contact" means the employee or owner 475
designated by the registrant or applicant to be the individual who 476
the division of financial institutions can contact regarding 477
compliance or licensing matters relating to the registrant's or 478

applicant's business or lending activities secured by an interest 479
in real estate. 480

(FF) "Consumer reporting agency" has the same meaning as in 481
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C. 1681a, 482
as amended. 483

(GG) "Mortgage broker" has the same meaning as in section 484
1322.01 of the Revised Code. 485

Sec. 1321.522. (A) A credit union service organization 486
seeking exemption from registration pursuant to division (D)(6) of 487
section 1321.53 of the Revised Code shall submit an application to 488
the superintendent of financial institutions along with a 489
nonrefundable fee of three hundred fifty dollars for each location 490
of an office to be maintained by the organization. The application 491
shall be in a form prescribed by the superintendent and shall 492
include all of the following: 493

(1) The organization's business name and state of 494
incorporation; 495

(2) The names of the owners, officers, or partners having 496
control of the organization; 497

(3) An attestation to all of the following: 498

(a) That the organization and its owners, officers, or 499
partners identified in division (A)(2) of this section have not 500
had a mortgage lender certificate of registration or mortgage loan 501
originator license, or any comparable authority, revoked in any 502
governmental jurisdiction; 503

(b) That the organization and its owners, officers, or 504
partners identified in division (A)(2) of this section have not 505
been convicted of, or pleaded guilty or nolo contendere to, any of 506
the following in a domestic, foreign, or military court: 507

(i) During the seven-year period immediately preceding the 508

date of application for exemption, ~~any felony or~~ a misdemeanor 509
involving theft or any felony; 510

(ii) At any time prior to the date of application for 511
exemption, a felony involving an act of fraud, dishonesty, a 512
breach of trust, theft, or money laundering. 513

(c) That, with respect to financing residential mortgage 514
loans, the organization conducts business with residents of this 515
state or secures its loans with property located in this state. 516

(4) The names of all mortgage loan originators or licensees 517
under the organization's control and direction; 518

(5) An acknowledgment of understanding that the organization 519
is subject to the regulatory authority of the division of 520
financial institutions; 521

(6) Any further information that the superintendent may 522
require. 523

(B)(1) If the superintendent determines that the credit union 524
service organization honestly made the attestation required under 525
division (A)(3) of this section and otherwise qualifies for 526
exemption, the superintendent shall issue a letter of exemption. 527
Additional certified copies of a letter of exemption shall be 528
provided upon request and the payment of seventy-five dollars per 529
copy. 530

(2) If the superintendent determines that the organization 531
does not qualify for exemption, the superintendent shall issue a 532
notice of denial, and the organization may request a hearing in 533
accordance with Chapter 119. of the Revised Code. 534

(C) All of the following conditions apply to any credit union 535
service organization holding a valid letter of exemption: 536

(1) The organization shall be subject to examination in the 537
same manner as a registrant with respect to the conduct of the 538

organization's mortgage loan originators. In conducting any 539
out-of-state examination, the organization shall be responsible 540
for paying the costs of the division in the same manner as a 541
registrant. 542

(2) The organization shall have an affirmative duty to 543
supervise the conduct of its mortgage loan originators, and to 544
cooperate with investigations by the division with respect to that 545
conduct, in the same manner as is required of registrants. 546

(3) The organization shall keep and maintain records of all 547
transactions relating to the conduct of its mortgage loan 548
originators in the same manner as is required of registrants. 549

(4) The organization may provide the surety bond for its 550
mortgage loan originators in the same manner as is permitted for 551
registrants. 552

(D) A letter of exemption expires annually on the 553
thirty-first day of December and may be renewed on or before that 554
date by submitting an application that meets the requirements of 555
division (A) of this section and a nonrefundable renewal fee of 556
three hundred fifty dollars for each location of an office to be 557
maintained by the credit union service organization. 558

(E) The superintendent may issue a notice to revoke or 559
suspend a letter of exemption if the superintendent finds that the 560
letter was obtained through a false or fraudulent representation 561
of a material fact, or the omission of a material fact, required 562
by law, or that a condition for exemption is no longer being met. 563
Prior to issuing an order of revocation or suspension, the credit 564
union service organization shall be given an opportunity for a 565
hearing in accordance with Chapter 119. of the Revised Code. 566

(F) All information obtained by the division pursuant to an 567
examination or investigation under this section shall be subject 568
to the confidentiality requirements set forth in section 1321.55 569

of the Revised Code. 570

(G) All money collected under this section shall be deposited 571
into the state treasury to the credit of the consumer finance fund 572
created in section 1321.21 of the Revised Code. 573

Sec. 1321.53. (A)(1) An application for a certificate of 574
registration under sections 1321.51 to 1321.60 of the Revised Code 575
shall contain an undertaking by the applicant to abide by those 576
sections. The application shall be in writing, under oath, and in 577
the form prescribed by the division of financial institutions, and 578
shall contain any information that the division may require. 579
Applicants that are foreign corporations shall obtain and maintain 580
a license pursuant to Chapter 1703. of the Revised Code before a 581
certificate is issued or renewed. 582

(2) Upon the filing of the application and the payment by the 583
applicant of a nonrefundable two hundred dollar investigation fee, 584
a nonrefundable three hundred dollar annual registration fee, and 585
any additional fee required by the nationwide mortgage licensing 586
system and registry, the division shall investigate the relevant 587
facts. If the application involves investigation outside this 588
state, the applicant may be required by the division to advance 589
sufficient funds to pay any of the actual expenses of such 590
investigation, when it appears that these expenses will exceed two 591
hundred dollars. An itemized statement of any of these expenses 592
which the applicant is required to pay shall be furnished to the 593
applicant by the division. No certificate shall be issued unless 594
all the required fees have been submitted to the division. 595

(3) All applicants making loans secured by an interest in 596
real estate shall designate an employee or owner of the applicant 597
as the applicant's primary point of contact. While acting as the 598
primary point of contact, the employee or owner shall not be 599
employed by any other registrant or mortgage broker. 600

(4) The investigation undertaken upon application shall 601
include both a civil and criminal records check of the applicant 602
including any individual whose identity is required to be 603
disclosed in the application. Where the applicant is a business 604
entity the superintendent shall have the authority to require a 605
civil and criminal background check of those persons that in the 606
determination of the superintendent have the authority to direct 607
and control the operations of the applicant. 608

(5)(a) Notwithstanding division (K) of section 121.08 of the 609
Revised Code, the superintendent of financial institutions shall 610
obtain a criminal history records check and, as part of that 611
records check, request that criminal record information from the 612
federal bureau of investigation be obtained. To fulfill this 613
requirement, the superintendent shall do either of the following: 614

(i) Request the superintendent of the bureau of criminal 615
identification and investigation, or a vendor approved by the 616
bureau, to conduct a criminal records check based on the 617
applicant's fingerprints or, if the fingerprints are unreadable, 618
based on the applicant's social security number, in accordance 619
with division (A)(12) of section 109.572 of the Revised Code; 620

(ii) Authorize the nationwide mortgage licensing system and 621
registry to request a criminal history background check as set 622
forth in division (C) of section 1321.531 of the Revised Code. 623

(b) Any fee required under division (C)(3) of section 109.572 624
of the Revised Code or by the nationwide mortgage licensing system 625
and registry shall be paid by the applicant. 626

(6) If an application for a certificate of registration does 627
not contain all of the information required under division (A) of 628
this section, and if such information is not submitted to the 629
division or to the nationwide mortgage licensing system and 630
registry within ninety days after the superintendent or the 631

nationwide mortgage licensing system and registry requests the 632
information in writing, including by electronic transmission or 633
facsimile, the superintendent may consider the application 634
withdrawn. 635

(7) If the division finds that the financial responsibility, 636
experience, character, and general fitness of the applicant 637
command the confidence of the public and warrant the belief that 638
the business will be operated honestly and fairly in compliance 639
with the purposes of sections 1321.51 to 1321.60 of the Revised 640
Code and the rules adopted thereunder, and that the applicant has 641
the requisite bond or applicable net worth and assets required by 642
division (B) of this section, the division shall thereupon issue a 643
certificate of registration to the applicant. The superintendent 644
shall not use a credit score as the sole basis for a registration 645
denial. 646

(a)(i) Certificates of registration issued on or after July 647
1, 2010, shall annually expire on the thirty-first day of 648
December, unless renewed by the filing of a renewal application 649
and payment of a three hundred dollar nonrefundable annual 650
registration fee, any assessment as determined by the 651
superintendent pursuant to division (A)(7)(a)(ii) of this section, 652
and any additional fee required by the nationwide mortgage 653
licensing system and registry, on or before the last day of 654
December of each year. No other fee or assessment shall be 655
required of a registrant by the state or any political subdivision 656
of this state. 657

(ii) If the renewal fees billed by the superintendent 658
pursuant to division (A)(7)(a)(i) of this section are less than 659
the estimated expenditures of the consumer finance section of the 660
division of financial institutions, as determined by the 661
superintendent, for the following fiscal year, the superintendent 662
may assess each registrant at a rate sufficient to equal in the 663

aggregate the difference between the renewal fees billed and the 664
estimated expenditures. Each registrant shall pay the assessed 665
amount to the superintendent prior to the last day of June. In no 666
case shall the assessment exceed ten cents per each one hundred 667
dollars of interest (excluding charge-off recoveries), points, 668
loan origination charges, and credit line charges collected by 669
that registrant during the previous calendar year. If such an 670
assessment is imposed, it shall not be less than two hundred fifty 671
dollars per registrant and shall not exceed thirty thousand 672
dollars less the total renewal fees paid pursuant to division 673
(A)(7)(a)(i) of this section by each registrant. 674

(b) Registrants shall timely file renewal applications on 675
forms prescribed by the division and provide any further 676
information that the division may require. If a renewal 677
application does not contain all of the information required under 678
this section, and if that information is not submitted to the 679
division or to the nationwide mortgage licensing system and 680
registry within ninety days after the superintendent or the 681
nationwide mortgage licensing system and registry requests the 682
information in writing, including by electronic transmission or 683
facsimile, the superintendent may consider the application 684
withdrawn. 685

(c) Renewal shall not be granted if the applicant's 686
certificate of registration is subject to an order of suspension, 687
revocation, or an unpaid and past due fine imposed by the 688
superintendent. 689

(d) If the division finds the applicant does not meet the 690
conditions set forth in this section, it shall issue a notice of 691
intent to deny the application, and forthwith notify the applicant 692
of the denial, the grounds for the denial, and the applicant's 693
reasonable opportunity to be heard on the action in accordance 694
with Chapter 119. of the Revised Code. 695

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

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

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

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

(C) Not more than one place of business shall be maintained under the same certificate, but the division may issue additional certificates to the same registrant upon compliance with sections 1321.51 to 1321.60 of the Revised Code, governing the issuance of a single certificate. No change in the place of business of a registrant to a location outside the original municipal corporation shall be permitted under the same certificate without the approval of a new application, the payment of the registration fee and, if required by the superintendent, the payment of an investigation fee of two hundred dollars. When a registrant wishes to change its place of business within the same municipal corporation, it shall give written notice of the change in advance to the division, which shall provide a certificate for the new address without cost. If a registrant changes its name, prior to making loans under the new name it shall give written notice of

the change to the division, which shall provide a certificate in 728
the new name without cost. Sections 1321.51 to 1321.60 of the 729
Revised Code do not limit the loans of any registrant to residents 730
of the community in which the registrant's place of business is 731
situated. Each certificate shall be kept conspicuously posted in 732
the place of business of the registrant and is not transferable or 733
assignable. 734

(D) Sections 1321.51 to 1321.60 of the Revised Code do not 735
apply to any of the following: 736

(1) Entities chartered and lawfully doing business under the 737
authority of any law of this state, another state, or the United 738
States as a bank, savings bank, trust company, savings and loan 739
association, or credit union, or a subsidiary of any such entity, 740
which subsidiary is regulated by a federal banking agency and is 741
owned and controlled by such a depository institution; 742

(2) Life, property, or casualty insurance companies licensed 743
to do business in this state; 744

(3) Any person that is a lender making a loan pursuant to 745
sections 1321.01 to 1321.19 of the Revised Code or a business loan 746
as described in division (B)(6) of section 1343.01 of the Revised 747
Code; 748

(4) Any political subdivision, or any governmental or other 749
public entity, corporation, instrumentality, or agency, in or of 750
the United States or any state of the United States, or any entity 751
described in division (B)(3) of section 1343.01 of the Revised 752
Code; 753

(5) A college or university, or controlled entity of a 754
college or university, as those terms are defined in section 755
1713.05 of the Revised Code; 756

(6) A credit union service organization, provided the 757
organization utilizes services provided by registered mortgage 758

loan originators or the organization complies with section 759
1321.522 of the Revised Code and holds a valid letter of exemption 760
issued by the superintendent. 761

(E) No person engaged in the business of selling tangible 762
goods or services related to tangible goods may receive or retain 763
a certificate under sections 1321.51 to 1321.60 of the Revised 764
Code for such place of business. 765

Sec. 1321.531. (A) An application for a mortgage loan 766
originator license shall be in writing, under oath, and in the 767
form prescribed by the superintendent of financial institutions. 768
The application shall be accompanied by a nonrefundable 769
application fee of one hundred fifty dollars and all other 770
required fees, including any fees required by the nationwide 771
mortgage licensing system and registry. 772

(B) The superintendent may establish relationships or enter 773
into contracts with the nationwide mortgage licensing system and 774
registry, or any entities designated by it, to collect and 775
maintain records and process transaction fees or other fees 776
related to mortgage loan originator licensees or other persons 777
subject to or involved in their licensure. 778

(C) In connection with applying for a mortgage loan 779
originator license, the applicant shall furnish to the nationwide 780
mortgage licensing system and registry the following information 781
concerning the applicant's identity: 782

(1) The applicant's fingerprints for submission to the 783
federal bureau of investigation, and any other governmental agency 784
or entity authorized to receive such information, for purposes of 785
a state, national, and international criminal history background 786
check; 787

(2) Personal history and experience in a form prescribed by 788

the nationwide mortgage licensing system and registry, along with 789
authorization for the superintendent and the nationwide mortgage 790
licensing system and registry to obtain the following: 791

(a) An independent credit report from a consumer reporting 792
agency; 793

(b) Information related to any administrative, civil, or 794
criminal findings by any governmental jurisdiction. 795

(D) In order to effectuate the purposes of divisions (C)(1) 796
and (C)(2)(b) of this section, the superintendent may use the 797
conference of state bank supervisors, or a wholly owned 798
subsidiary, as a channeling agent for requesting information from 799
and distributing information to the United States department of 800
justice or any other governmental agency. The superintendent may 801
also use the nationwide mortgage licensing system and registry as 802
a channeling agent for requesting information from and 803
distributing information to any source related to matters subject 804
to divisions (C)(2)(a) and (b) of this section. 805

(E) Upon the filing of the application, payment of the 806
application fee, and payment of any additional fee, including any 807
fee required by the nationwide mortgage licensing system and 808
registry, the superintendent shall investigate the applicant as 809
set forth in division (E) of this section. 810

(1)(a) Notwithstanding division (K) of section 121.08 of the 811
Revised Code, the superintendent shall obtain a criminal history 812
records check and, as part of that records check, request that 813
criminal record information from the federal bureau of 814
investigation be obtained. To fulfill this requirement, the 815
superintendent shall do either of the following: 816

(i) Request the superintendent of the bureau of criminal 817
identification and investigation, or a vendor approved by the 818
bureau, to conduct a criminal records check based on the 819

applicant's fingerprints or, if the fingerprints are unreadable, 820
based on the applicant's social security number in accordance with 821
division (A)(12) of section 109.572 of the Revised Code; 822

(ii) Authorize the nationwide mortgage licensing system and 823
registry to request a criminal history background check as set 824
forth in division (C) of this section. 825

(b) Any fee required under division (C)(3) of section 109.572 826
of the Revised Code or by the nationwide mortgage licensing system 827
and registry shall be paid by the applicant. 828

(2) The superintendent of financial institutions shall 829
conduct a civil records check. 830

(3) If, in order to issue a license to an applicant, 831
additional investigation by the superintendent outside this state 832
is necessary, the superintendent may require the applicant to 833
advance sufficient funds to pay the actual expenses of the 834
investigation, if it appears that these expenses will exceed one 835
hundred dollars. The superintendent shall provide the applicant 836
with an itemized statement of the actual expenses that the 837
applicant is required to pay. 838

(F) If an application for a mortgage loan originator license 839
does not contain all of the information required under this 840
section, and if that information is not submitted to the 841
superintendent or to the nationwide mortgage licensing system and 842
registry within ninety days after the superintendent or the 843
nationwide mortgage licensing system and registry requests the 844
information in writing, including by electronic transmission or 845
facsimile, the superintendent may consider the application 846
withdrawn. 847

Sec. 1321.532. (A) Upon the conclusion of the investigation 848
required under division (E) of section 1321.531 of the Revised 849

Code, the superintendent of financial institutions shall issue a 850
mortgage loan originator license to the applicant if the 851
superintendent finds that all of the following conditions are met: 852

(1) The application is accompanied by the application fee and 853
any additional fee required by the nationwide mortgage licensing 854
system and registry. 855

If a check or other draft instrument is returned to the 856
superintendent for insufficient funds, the superintendent shall 857
notify the licensee by certified mail, return receipt requested, 858
that the license issued in reliance on the check or other draft 859
instrument will be canceled unless the licensee, within thirty 860
days after receipt of the notice, submits the application fee and 861
a one-hundred-dollar penalty to the superintendent. If the 862
licensee does not submit the application fee and penalty within 863
that time period, or if any check or other draft instrument used 864
to pay the fee or penalty is returned to the superintendent for 865
insufficient funds, the license shall be canceled immediately 866
without a hearing, and the licensee shall cease activity as a 867
mortgage loan originator. 868

(2) The applicant complies with sections 1321.51 to 1321.60 869
of the Revised Code. 870

(3) The applicant has not had a mortgage loan originator 871
license, or comparable authority, revoked in any governmental 872
jurisdiction. 873

(4) The applicant has not been convicted of, or pleaded 874
guilty or nolo contendere to, any of the following in a domestic, 875
foreign, or military court: 876

(a) During the seven-year period immediately preceding the 877
date of application for licensure, ~~any felony or~~ a misdemeanor 878
involving theft or any felony; 879

(b) At any time prior to the date of application for 880
licensure, a felony involving an act of fraud, dishonesty, a 881
breach of trust, theft, or money laundering. 882

(5) Based on the totality of the circumstances and 883
information submitted in the application, the applicant has proven 884
to the division of financial institutions, by a preponderance of 885
the evidence, that the applicant is of good business repute, 886
appears qualified to act as a mortgage loan originator, and has 887
fully complied with sections 1321.51 to 1321.60 of the Revised 888
Code and rules adopted thereunder, and that the applicant meets 889
all of the conditions for issuing a mortgage loan originator 890
license. 891

(6) The applicant successfully completed the written test 892
required under section 1321.535 of the Revised Code and the 893
education requirements set forth in section 1321.534 of the 894
Revised Code. 895

(7) The applicant is covered under a valid bond in compliance 896
with section 1321.533 of the Revised Code. 897

(8) The applicant's financial responsibility, character, and 898
general fitness command the confidence of the public and warrant 899
the belief that the mortgage loan originator will operate honestly 900
and fairly in compliance with the purposes of sections 1321.51 to 901
1321.60 of the Revised Code. The superintendent shall not use a 902
credit score as the sole basis for a license denial. 903

(B) The license issued under division (A) of this section may 904
be renewed annually on or before the thirty-first day of December 905
if the superintendent finds that all of the following conditions 906
are met: 907

(1) The renewal application is accompanied by a nonrefundable 908
renewal fee of one hundred fifty dollars, and any additional fee 909
required by the nationwide mortgage licensing system and registry. 910

If a check or other draft instrument is returned to the 911
superintendent for insufficient funds, the superintendent shall 912
notify the licensee by certified mail, return receipt requested, 913
that the license renewed in reliance on the check or other draft 914
instrument will be canceled unless the licensee, within thirty 915
days after receipt of the notice, submits the renewal fee and a 916
one-hundred-dollar penalty to the superintendent. If the licensee 917
does not submit the renewal fee and penalty within that time 918
period, or if any check or other draft instrument used to pay the 919
fee or penalty is returned to the superintendent for insufficient 920
funds, the license shall be canceled immediately without a 921
hearing, and the licensee shall cease activity as a mortgage loan 922
originator. 923

(2) The applicant has completed at least eight hours of 924
continuing education as required under section 1321.536 of the 925
Revised Code. 926

(3) The applicant meets the conditions set forth in divisions 927
(A)(2) to (8) of this section. 928

(4) The applicant's license is not subject to an order of 929
suspension or an unpaid and past due fine imposed by the 930
superintendent. 931

(C)(1) Subject to division (C)(2) of this section, if a 932
license renewal application or fee, including any additional fee 933
required by nationwide mortgage licensing system and registry, is 934
received by the superintendent after the thirty-first day of 935
December, the license shall not be considered renewed, and the 936
applicant shall cease activity as a mortgage loan originator. 937

(2) Division (C)(1) of this section shall not apply if the 938
applicant, no later than the thirty-first day of January, submits 939
the renewal application and fee, including any additional fee 940
required by nationwide mortgage licensing system and registry, and 941

a one-hundred-dollar penalty to the superintendent. 942

(D) Mortgage loan originator licenses issued on or after July 943
1, 2010, shall annually expire on the thirty-first day of 944
December. 945

(E) If a renewal application does not contain all of the 946
information required under this section, and if that information 947
is not submitted to the superintendent or to the nationwide 948
mortgage licensing system and registry within ninety days after 949
the superintendent or the nationwide mortgage licensing system and 950
registry requests the information in writing, including by 951
electronic transmission or facsimile, the superintendent may 952
consider the application withdrawn. 953

Sec. 1321.533. (A)(1) A registrant engaged in residential 954
mortgage loan activity shall not conduct business in this state, 955
unless the registrant ~~maintains the net worth and assets required~~ 956
~~under division (B) of section 1321.53 of the Revised Code~~ or has 957
obtained and maintains in effect at all times a corporate surety 958
bond issued by a bonding company or insurance company authorized 959
to do business in this state. 960

(a) The bond shall be in favor of the superintendent of 961
financial institutions. 962

(b) The bond shall be in the penal sum of one-half per cent 963
of the aggregate loan amount of residential mortgage loans 964
originated in the immediately preceding calendar year, but not 965
exceeding one hundred fifty thousand dollars. Under no 966
circumstances, however, shall the bond be less than fifty thousand 967
dollars and an additional penal sum of ten thousand dollars for 968
each location, in excess of one, at which the registrant conducts 969
business. 970

(c) The term of the bond shall coincide with the term of 971

registration.	972
(d) A copy of the bond shall be filed with the superintendent.	973 974
(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.	975 976 977 978
(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.	979 980 981
(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 conduct business in this state, unless either the licensee or the exempt entity on the licensee's behalf 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.	982 983 984 985 986 987 988 989
(a) The bond shall be in favor of the superintendent.	990
(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 thousand dollars. Under no circumstances, however, shall the bond be less than fifty thousand dollars.	991 992 993 994 995
(c) The term of the bond shall coincide with the term of licensure.	996 997
(d) A copy of the bond shall be filed with the superintendent.	998 999
(e) The bond shall be for the exclusive benefit of any borrower injured by a violation by the licensee of any provision	1000 1001

of sections 1321.51 to 1321.60 of the Revised Code or the rules 1002
adopted thereunder. 1003

(f) The aggregate liability of the corporate surety for any 1004
and all breaches of the conditions of the bond shall not exceed 1005
the penal sum of the bond. 1006

(g) Licensees covered by a corporate surety bond obtained by 1007
a registrant or exempt entity they are employed by or associated 1008
with shall not be required to obtain an individual bond. 1009

(B)(1) The registrant or licensee shall give notice to the 1010
superintendent by certified mail of any action that is brought by 1011
a borrower against the licensee, registrant, or any mortgage loan 1012
originator of the registrant alleging injury by a violation of any 1013
provision of sections 1321.51 to 1321.60 of the Revised Code, and 1014
of any judgment that is entered against the licensee, registrant, 1015
or mortgage loan originator of the registrant by a borrower 1016
injured by a violation of any provision of sections 1321.51 to 1017
1321.60 of the Revised Code. The notice shall provide details 1018
sufficient to identify the action or judgment, and shall be filed 1019
with the superintendent within ten days after the commencement of 1020
the action or notice to the registrant or licensee of entry of a 1021
judgment. An exempt entity securing bonding for the licensees in 1022
their employ shall report those actions by a borrower in the same 1023
manner as is required of registrants. 1024

(2) A corporate surety, within ten days after it pays any 1025
claim or judgment, shall give notice to the superintendent by 1026
certified mail of the payment, with details sufficient to identify 1027
the person and the claim or judgment paid. 1028

(C) Whenever the penal sum of the corporate surety bond is 1029
reduced by one or more recoveries or payments, the registrant or 1030
separately bonded licensee shall furnish a new or additional bond 1031
under this section, so that the total or aggregate penal sum of 1032

the bond or bonds equals the sum required by this section, or 1033
shall furnish an endorsement executed by the corporate surety 1034
reinstating the bond to the required penal sum of it. 1035

(D) The liability of the corporate surety on the bond to the 1036
superintendent and to any borrower injured by a violation of any 1037
provision of sections 1321.51 to 1321.60 of the Revised Code shall 1038
not be affected in any way by any misrepresentation, breach of 1039
warranty, or failure to pay the premium, by any act or omission 1040
upon the part of the registrant or licensee, by the insolvency or 1041
bankruptcy of the registrant or licensee, or by the insolvency of 1042
the registrant's or licensee's estate. The liability for any act 1043
or omission that occurs during the term of the corporate surety 1044
bond shall be maintained and in effect for at least two years 1045
after the date on which the corporate surety bond is terminated or 1046
canceled. 1047

(E) The corporate surety bond shall not be canceled by the 1048
registrant, the licensee, or the corporate surety except upon 1049
notice to the superintendent by certified mail, return receipt 1050
requested. The cancellation shall not be effective prior to thirty 1051
days after the superintendent receives the notice. 1052

(F) No registrant or licensee shall fail to comply with this 1053
section. Any registrant or licensee that fails to comply with this 1054
section shall cease all mortgage lender or mortgage loan 1055
originator activity in this state until the registrant or licensee 1056
has complied with this section. 1057

Sec. 1321.535. (A) Each applicant for a mortgage loan 1058
originator license shall submit to a written test that is 1059
developed and approved by the nationwide mortgage licensing system 1060
and registry and administered by a test provider approved by the 1061
nationwide mortgage licensing system and registry based upon 1062
reasonable standards. 1063

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

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

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

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

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

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

Sec. 1321.54. (A) The division of financial institutions may

adopt, in accordance with Chapter 119. of the Revised Code, rules 1094
that are necessary for the enforcement or administration of 1095
sections 1321.51 to 1321.60 of the Revised Code and that are 1096
consistent with those sections and rules to carry out the purposes 1097
of those sections. 1098

(B)(1) The division may, upon written notice to the 1099
registrant or licensee stating the contemplated action, the 1100
grounds for the action, and the registrant's or licensee's 1101
reasonable opportunity to be heard on the action in accordance 1102
with Chapter 119. of the Revised Code, revoke, suspend, or refuse 1103
to renew any certificate or license issued under sections 1321.51 1104
to 1321.60 of the Revised Code if it finds any of the following: 1105

(a) A violation of or failure to comply with any provision of 1106
sections 1321.51 to 1321.60 of the Revised Code or the rules 1107
adopted thereunder, any federal lending law, or any other law 1108
applicable to the business conducted under a certificate of 1109
registration or license; 1110

(b) The person has been convicted of or pleaded guilty or 1111
nolo contendere to any criminal felony offense in a domestic, 1112
foreign, or military court; 1113

(c) The person has been convicted of or pleaded guilty or 1114
nolo contendere to any criminal offense involving theft, receiving 1115
stolen property, embezzlement, forgery, fraud, passing bad checks, 1116
money laundering, breach of trust, dishonesty, or drug 1117
trafficking, or any criminal offense involving money or 1118
securities, in a domestic, foreign, or military court; 1119

(d) The person's mortgage lender certificate of registration 1120
or mortgage loan originator license, or comparable authority, has 1121
been revoked in any governmental jurisdiction. 1122

(2) In addition to, or in lieu of, any revocation, 1123
suspension, or denial, the division may impose a monetary fine 1124

after administrative hearing or in settlement of matters subject 1125
to claims under division (B)(1)(a) of this section. 1126

(3) Subject to division (D)(3) of section 1321.52 of the 1127
Revised Code, the revocation, suspension, or refusal to renew 1128
shall not impair the obligation of any pre-existing lawful 1129
contract made under sections 1321.51 to 1321.60 of the Revised 1130
Code; provided, however, that a prior registrant shall make good 1131
faith efforts to promptly transfer the registrant's collection 1132
rights to another registrant or person exempt from registration, 1133
or be subject to additional monetary fines and legal or 1134
administrative action by the division. Nothing in division (B)(3) 1135
of this section shall limit a court's ability to impose a cease 1136
and desist order preventing any further business or servicing 1137
activity. 1138

(C)(1) The superintendent of financial institutions may 1139
impose a fine for a violation of sections 1321.51 to 1321.60 of 1140
the Revised Code or any rule adopted thereunder. All fines 1141
collected pursuant to this section shall be paid to the treasurer 1142
of state to the credit of the consumer finance fund created in 1143
section 1321.21 of the Revised Code. In determining the amount of 1144
a fine to be imposed pursuant to this section, the superintendent 1145
may consider all of the following to the extent it is known to the 1146
division of financial institutions: 1147

(a) The seriousness of the violation; 1148

(b) The registrant's or licensee's good faith efforts to 1149
prevent the violation; 1150

(c) The registrant's or licensee's history regarding 1151
violations and compliance with division orders; 1152

(d) The registrant's or licensee's financial resources; 1153

(e) Any other matters the superintendent considers 1154
appropriate in enforcing sections 1321.51 to 1321.60 of the 1155

Revised Code. 1156

(2) Monetary fines imposed under this division shall not 1157
exceed twenty-five thousand dollars and do not preclude any 1158
criminal fine imposed pursuant to section 1321.99 of the Revised 1159
Code. 1160

(D) The superintendent may investigate alleged violations of 1161
sections 1321.51 to 1321.60 of the Revised Code, or the rules 1162
adopted thereunder, or complaints concerning any such violation. 1163
The superintendent may make application to the court of common 1164
pleas for an order enjoining any violation and, upon a showing by 1165
the superintendent that a person has committed, or is about to 1166
commit, a violation, the court shall grant an injunction, 1167
restraining order, or other appropriate relief. The 1168
superintendent, in making application to the court of common pleas 1169
for an order enjoining a person from acting as a registrant or 1170
mortgage loan originator in violation of division (A) or (E) of 1171
section 1321.52 of the Revised Code, may also seek and obtain 1172
civil penalties for that unregistered or unlicensed conduct in an 1173
amount not to exceed five thousand dollars per violation. 1174

(E) In conducting an investigation pursuant to this section, 1175
the superintendent may compel, by subpoena, witnesses to testify 1176
in relation to any matter over which the superintendent has 1177
jurisdiction, and may require the production or photocopying of 1178
any book, record, or other document pertaining to such matter. If 1179
a person fails to file any statement or report, obey any subpoena, 1180
give testimony, produce any book, record, or other document as 1181
required by such a subpoena, or permit photocopying of any book, 1182
record, or other document subpoenaed, the court of common pleas of 1183
any county in this state, upon application made to it by the 1184
superintendent, shall compel obedience by attachment proceedings 1185
for contempt, as in the case of disobedience of the requirements 1186
of a subpoena issued from the court, or a refusal to testify 1187

therein. 1188

(F) If the superintendent determines that a person is engaged 1189
in, or is believed to be engaged in, activities that may 1190
constitute a violation of sections 1321.51 to 1321.60 of the 1191
Revised Code or the rules adopted thereunder, the superintendent 1192
may, after notice and a hearing conducted in accordance with 1193
Chapter 119. of the Revised Code, issue a cease and desist order. 1194
The superintendent, in taking administrative action to enjoin a 1195
person from acting as a registrant or mortgage loan originator in 1196
violation of division (A) or (E) of section 1321.52 of the Revised 1197
Code, may also seek and impose fines for those violations in an 1198
amount not to exceed five thousand dollars per violation. Such an 1199
order shall be enforceable in the court of common pleas. 1200

(G) The superintendent shall regularly report violations of 1201
sections 1321.51 to 1321.60 of the Revised Code, as well as 1202
enforcement actions and other relevant information, to the 1203
nationwide mortgage licensing system and registry pursuant to 1204
division (E) of section 1321.55 of the Revised Code. 1205

(H)(1) To protect the public interest, the superintendent 1206
may, without a prior hearing, do any of the following: 1207

(a) Suspend the certificate of registration or license of a 1208
person who is convicted of or pleads guilty or nolo contendere to 1209
a criminal violation of sections 1321.51 to 1321.60 of the Revised 1210
Code or any criminal offense described in division (B)(1)(b) or 1211
(c) of this section; 1212

(b) Suspend the certificate of registration or license of a 1213
person who violates division (F) of section 1321.533 of the 1214
Revised Code; 1215

(c) Suspend the certificate of registration or license of a 1216
person who fails to comply with a request made by the 1217
superintendent under this section or section 1321.55 of the 1218

Revised Code to inspect qualifying education transcripts located 1219
at the registrant's or licensee's place of business. 1220

(2) The superintendent may, in accordance with Chapter 119. 1221
of the Revised Code, subsequently revoke any registration or 1222
license suspended under division (H)(1) of this section. 1223

(3) The superintendent shall, in accordance with Chapter 119. 1224
of the Revised Code, adopt rules establishing the maximum amount 1225
of time a suspension under division (H)(1) of this section may 1226
continue before a hearing is conducted. 1227

Sec. 1321.55. (A) Every registrant shall keep records 1228
pertaining to loans made under sections 1321.51 to 1321.60 of the 1229
Revised Code. Such records shall be segregated from records 1230
pertaining to transactions that are not subject to these sections 1231
of the Revised Code. Every registrant shall preserve records 1232
pertaining to loans made under sections 1321.51 to 1321.60 of the 1233
Revised Code for at least two years after making the final entry 1234
on such records. Accounting systems maintained in whole or in part 1235
by mechanical or electronic data processing methods that provide 1236
information equivalent to that otherwise required are acceptable 1237
for this purpose. At least once each eighteen-month cycle, the 1238
division of financial institutions shall make or cause to be made 1239
an examination of records pertaining to loans made under sections 1240
1321.51 to 1321.60 of the Revised Code, for the purpose of 1241
determining whether the registrant is complying with these 1242
sections and of verifying the registrant's annual report. 1243

(B)(1) As required by the superintendent of financial 1244
institutions, each registrant shall file with the division each 1245
year a report under oath or affirmation, on forms supplied by the 1246
division, concerning the business and operations for the preceding 1247
calendar year. Whenever a registrant operates two or more 1248
registered offices or whenever two or more affiliated registrants 1249

operate registered offices, then a composite report of the group 1250
of registered offices may be filed in lieu of individual reports. 1251

(2) The division shall publish annually an analysis of the 1252
information required under division (B)(1) of this section, but 1253
the individual reports shall not be public records and shall not 1254
be open to public inspection. 1255

(3) Each mortgage licensee shall submit to the nationwide 1256
mortgage licensing system and registry call reports or other 1257
reports of condition, which shall be in such form and shall 1258
contain such information as the nationwide mortgage licensing 1259
system and registry may require. 1260

(C)(1) The following information is confidential: 1261

(a) Examination information, and any information leading to 1262
or arising from an examination; 1263

(b) Investigation information, and any information arising 1264
from or leading to an investigation. 1265

(2) The information described in division (C)(1) of this 1266
section shall remain confidential for all purposes except when it 1267
is necessary for the superintendent to take official action 1268
regarding the affairs of a registrant or licensee, or in 1269
connection with criminal or civil proceedings to be initiated by a 1270
prosecuting attorney or the attorney general. This information may 1271
also be introduced into evidence or disclosed when and in the 1272
manner authorized by section 1181.25 of the Revised Code. 1273

(D) All application information, except social security 1274
numbers, employer identification numbers, financial account 1275
numbers, the identity of the institution where financial accounts 1276
are maintained, personal financial information, fingerprint cards 1277
and the information contained on such cards, and criminal 1278
background information, is a public record as defined in section 1279
149.43 of the Revised Code. 1280

(E) This section does not prevent the division of financial 1281
institutions from releasing to or exchanging with other financial 1282
institution regulatory authorities information relating to 1283
registrants and licensees. For this purpose, a "financial 1284
institution regulatory authority" includes a regulator of a 1285
business activity in which a registrant or licensee is engaged, or 1286
has applied to engage in, to the extent that the regulator has 1287
jurisdiction over a registrant or licensee engaged in that 1288
business activity. A registrant or licensee is engaged in a 1289
business activity, and a regulator of that business activity has 1290
jurisdiction over the registrant or licensee, whether the 1291
registrant or licensee conducts the activity directly or a 1292
subsidiary or affiliate of the registrant or licensee conducts the 1293
activity. 1294

(1) Any confidentiality or privilege arising under federal or 1295
state law with respect to any information or material provided to 1296
the nationwide mortgage licensing system and registry shall 1297
continue to apply to the information or material after the 1298
information or material has been provided to the nationwide 1299
mortgage licensing system and registry. The information and 1300
material so provided may be shared with all state and federal 1301
regulatory officials with mortgage industry oversight authority 1302
without the loss of confidentiality or privilege protections 1303
provided by federal law or the law of any state. Information or 1304
material described in division (E)(1) of this section to which 1305
confidentiality or privilege applies shall not be subject to any 1306
of the following: 1307

(a) Disclosure under any federal or state law governing 1308
disclosure to the public of information held by an officer or an 1309
agency of the federal government or of the respective state; 1310

(b) Subpoena or discovery, or admission into evidence, in any 1311
private civil action or administrative process, unless the person 1312

to whom such information or material pertains waives, in whole or 1313
in part and at the discretion of the person, any privilege held by 1314
the nationwide mortgage licensing system and registry with respect 1315
to that information or material. 1316

(2) The superintendent, in order to promote more effective 1317
regulation and reduce regulatory burden through supervisory 1318
information sharing, may enter into sharing arrangements with 1319
other governmental agencies, the conference of state bank 1320
supervisors, and the American association of residential mortgage 1321
regulators. 1322

(3) Any state law, including section 149.43 of the Revised 1323
Code, relating to the disclosure of confidential supervisory 1324
information or any information or material described in division 1325
(C)(1) or (E)(1) of this section that is inconsistent with this 1326
section shall be superseded by the requirements of this section. 1327

(F) This section shall not apply with respect to information 1328
or material relating to the employment history of, and publicly 1329
adjudicated disciplinary and enforcement actions against, mortgage 1330
loan originators that is included in the nationwide mortgage 1331
licensing system and registry for access by the public. 1332

(G) This section does not prevent the division from releasing 1333
information relating to registrants and licensees to the attorney 1334
general, to the superintendent of real estate and professional 1335
licensing for purposes relating to the administration of Chapters 1336
4735. and 4763. of the Revised Code, to the superintendent of 1337
insurance for purposes relating to the administration of Chapter 1338
3953. of the Revised Code, to the commissioner of securities for 1339
purposes relating to the administration of Chapter 1707. of the 1340
Revised Code, or to local law enforcement agencies and local 1341
prosecutors. Information the division releases pursuant to this 1342
section remains confidential. 1343

(H) The superintendent of financial institutions shall, by 1344
rule adopted in accordance with Chapter 119. of the Revised Code, 1345
establish a process by which mortgage loan originators may 1346
challenge information provided to the nationwide mortgage 1347
licensing system and registry by the superintendent. 1348

(I) No person, in connection with any examination or 1349
investigation conducted by the superintendent under sections 1350
1321.51 to 1321.60 of the Revised Code, shall knowingly do any of 1351
the following: 1352

(1) Circumvent, interfere with, obstruct, or fail to 1353
cooperate, including making a false or misleading statement, 1354
failing to produce records, or intimidating or suborning any 1355
witness; 1356

(2) Withhold, abstract, remove, mutilate, destroy, or secrete 1357
any books, records, computer records, or other information; 1358

(3) Tamper with, alter, or manufacture any evidence. 1359

Sec. 1321.59. (A) No registrant under sections 1321.51 to 1360
1321.60 of the Revised Code shall permit any borrower to be 1361
indebted for a loan made under sections 1321.51 to 1321.60 of the 1362
Revised Code at any time while the borrower is also indebted to an 1363
affiliate or agent of the registrant for a loan made under 1364
sections 1321.01 to 1321.19 of the Revised Code for the purpose or 1365
with the result of obtaining greater charges than otherwise would 1366
be permitted by sections 1321.51 to 1321.60 of the Revised Code. 1367

(B) No registrant shall induce or permit any person to become 1368
obligated to the registrant under sections 1321.51 to 1321.60 of 1369
the Revised Code, directly or contingently, or both, under more 1370
than one contract of loan at the same time for the purpose or with 1371
the result of obtaining greater charges than would otherwise be 1372
permitted by sections 1321.51 to 1321.60 of the Revised Code. 1373

(C) No registrant shall refuse to provide information 1374
regarding the amount required to pay in full a loan under sections 1375
1321.51 to 1321.60 of the Revised Code when requested by the 1376
borrower or by another person designated in writing by the 1377
borrower. 1378

(D) On any loan or application for a loan under sections 1379
1321.51 to 1321.60 of the Revised Code secured by a mortgage on a 1380
borrower's real estate which is other than a first lien on the 1381
real estate, no person shall pay or receive, directly or 1382
indirectly, fees or any other type of compensation for services of 1383
a mortgage broker that, in the aggregate, exceed the lesser of one 1384
thousand dollars or one per cent of the principal amount of the 1385
loan. 1386

(E) No registrant or licensee shall obtain a certificate of 1387
registration or license through any false or fraudulent 1388
representation of a material fact or any omission of a material 1389
fact required by state or federal law, or make any substantial 1390
misrepresentation in the registration or license application, to 1391
engage in lending secured by real estate. 1392

(F) No registrant or licensee, in connection with the 1393
business of making or offering to make residential mortgage loans, 1394
shall knowingly make false or misleading statements of a material 1395
fact, omissions of statements required by state or federal law, or 1396
false promises regarding a material fact, through advertising or 1397
other means, or engage in a continued course of 1398
misrepresentations. 1399

(G) No registrant, licensee, or person making loans without a 1400
certificate of registration in violation of division (A) of 1401
section 1321.52 of the Revised Code, shall knowingly engage in 1402
conduct, in connection with the business of making or offering to 1403
make residential mortgage loans, that constitutes improper, 1404
fraudulent, or dishonest dealings. 1405

(H) No registrant, licensee, or applicant involved in the 1406
business of making or offering to make residential mortgage loans 1407
shall fail to notify the division of financial institutions within 1408
thirty days after knowing any of the following: 1409

(1) That the registrant, licensee, or applicant has been 1410
convicted of or pleaded guilty or nolo contendere to a felony 1411
offense in a domestic, foreign, or military court; 1412

(2) That the registrant, licensee, or applicant has been 1413
convicted of or pleaded guilty or nolo contendere to any criminal 1414
offense involving theft, receiving stolen property, embezzlement, 1415
forgery, fraud, passing bad checks, money laundering, breach of 1416
trust, dishonesty, or drug trafficking, or any criminal offense 1417
involving money or securities, in a domestic, foreign, or military 1418
court; 1419

(3) That the registrant, licensee, or applicant has had a 1420
mortgage lender registration or mortgage loan originator license, 1421
or comparable authority, revoked in any governmental jurisdiction. 1422

(I) No registrant or licensee shall knowingly make, propose, 1423
or solicit fraudulent, false, or misleading statements on any 1424
mortgage document or on any document related to a mortgage loan, 1425
including a mortgage application, real estate appraisal, or real 1426
estate settlement or closing document. For purposes of this 1427
division, "fraudulent, false, or misleading statements" does not 1428
include mathematical errors, inadvertent transposition of numbers, 1429
typographical errors, or any other bona fide error. 1430

(J) No registrant or licensee shall knowingly instruct, 1431
solicit, propose, or otherwise cause a borrower to sign in blank a 1432
loan related document in connection with a residential mortgage 1433
loan. 1434

(K) No registrant or licensee shall knowingly compensate, 1435
instruct, induce, coerce, or intimidate, or attempt to compensate, 1436

instruct, induce, coerce, or intimidate, a person licensed or 1437
certified as an appraiser under Chapter 4763. of the Revised Code 1438
for the purpose of corrupting or improperly influencing the 1439
independent judgment of the person with respect to the value of 1440
the dwelling offered as security for repayment of a mortgage loan. 1441

(L) No registrant or licensee shall willfully retain original 1442
documents provided to the registrant or licensee by the borrower 1443
in connection with the residential mortgage loan application, 1444
including income tax returns, account statements, or other 1445
financial related documents. 1446

(M) No registrant or licensee shall, in connection with 1447
making residential mortgage loans, receive, directly or 1448
indirectly, a premium on the fees charged for services performed 1449
by a bona fide third party. 1450

(N) No registrant or licensee shall, in connection with 1451
making residential mortgage loans, pay or receive, directly or 1452
indirectly, a referral fee or kickback of any kind to or from a 1453
bona fide third party or other party with a related interest in 1454
the transaction, including a home improvement builder, real estate 1455
developer, or real estate broker or agent, for the referral of 1456
business. Nothing in this division shall prevent remuneration to a 1457
registrant or licensee for the licensed sale of any insurance 1458
product that is permitted under section 1321.57 of the Revised 1459
Code, provided there is no additional fee or premium added to the 1460
cost for the insurance and paid directly or indirectly by the 1461
borrower. 1462

(O) No registrant, licensee, or person making loans without a 1463
certificate of registration in violation of division (A) of 1464
section 1321.52 of the Revised Code shall, in connection with 1465
making or offering to make residential mortgage loans, engage in 1466
any unfair, deceptive, or unconscionable act or practice 1467
prohibited under sections 1345.01 to 1345.13 of the Revised Code. 1468

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

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

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

(C) "Employee" means an individual for whom a mortgage broker, 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 loan originator or operations manager of a registrant, but for whom the registrant is prevented by law from making income tax withholdings.

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

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

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

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

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

(d) Issues or offers to issue a commitment for a residential mortgage loan to a buyer.	1499 1500
(2) "Loan originator" does not include any of the following:	1501
(a) An individual who performs purely administrative or clerical tasks on behalf of a loan originator;	1502 1503
(b) A person licensed under Chapter 4735. of the Revised Code, or under the similar law of another state, who performs only real estate brokerage activities permitted by that license, provided the person is not compensated by a mortgage lender, mortgage broker, loan originator, or by any agent thereof;	1504 1505 1506 1507 1508
(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;	1509 1510 1511
(d) An employee of a registrant who acts solely as a loan processor or underwriter and 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 employee can or will perform any of the activities of a loan originator;	1512 1513 1514 1515 1516 1517
(e) A mortgage loan originator licensed under sections 1321.51 to 1321.60 of the Revised Code, when acting solely under that authority;	1518 1519 1520
(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 loan originator, or by any agent thereof;	1521 1522 1523 1524 1525
(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	1526 1527 1528

borrower by providing or transmitting the loan application and	1529
does not do any of the following:	1530
(i) Offer or negotiate the residential mortgage loan rates or	1531
terms;	1532
(ii) Provide any counseling with borrowers about residential	1533
mortgage loan rates or terms;	1534
(iii) Receive any payment or fee from any company or	1535
individual for assisting the borrower obtain or apply for	1536
financing to purchase the manufactured home, mobile home, or	1537
industrialized unit;	1538
(iv) Assist the borrower in completing a residential mortgage	1539
loan application.	1540
(h) An individual employed by a nonprofit organization that	1541
is recognized as tax exempt under 26 U.S.C. 501(c)(3) and whose	1542
primary activity is the construction, remodeling, or	1543
rehabilitation of homes for use by low-income families, provided	1544
that the nonprofit organization makes no-profit mortgage loans or	1545
mortgage loans at zero per cent interest to low-income families	1546
and no fees accrue directly to the nonprofit organization or	1547
individual employed by the nonprofit organization from those	1548
mortgage loans and that the United States department of housing	1549
and urban development does not deny this exemption.	1550
(F) "Mortgage" means any indebtedness secured by a deed of	1551
trust, security deed, or other lien on real property.	1552
(G)(1) "Mortgage broker" means any of the following:	1553
(a) A person that holds that person out as being able to	1554
assist a buyer in obtaining a mortgage and charges or receives	1555
from either the buyer or lender money or other valuable	1556
consideration readily convertible into money for providing this	1557
assistance;	1558

(b) A person that solicits financial and mortgage information 1559
from the public, provides that information to a mortgage broker or 1560
a person that makes residential mortgage loans, and charges or 1561
receives from either of them money or other valuable consideration 1562
readily convertible into money for providing the information; 1563

(c) A person engaged in table-funding or warehouse-lending 1564
mortgage loans that are first lien residential mortgage loans. 1565

(2) "Mortgage broker" does not include any of the following 1566
persons only with respect to business engaged in or authorized by 1567
the person's charter, license, authority, approval, or 1568
certificate, or as otherwise authorized by division (G)(2)(h) of 1569
this section: 1570

(a) A person that makes residential mortgage loans and 1571
receives a scheduled payment on each of those mortgage loans; 1572

(b) Any entity chartered and lawfully doing business under 1573
the authority of any law of this state, another state, or the 1574
United States as a bank, savings bank, trust company, savings and 1575
loan association, or credit union, or a subsidiary of any such 1576
entity, which subsidiary is regulated by a federal banking agency 1577
and is owned and controlled by a depository institution; 1578

(c) A consumer reporting agency that is in substantial 1579
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 1580
U.S.C.A. 1681a, as amended; 1581

(d) Any political subdivision, or any governmental or other 1582
public entity, corporation, instrumentality, or agency, in or of 1583
the United States or any state; 1584

(e) A college or university, or controlled entity of a 1585
college or university, as those terms are defined in section 1586
1713.05 of the Revised Code; 1587

(f) Any entity created solely for the purpose of securitizing 1588

loans secured by an interest in real estate, provided the entity 1589
does not service the loans. For purposes of division (G)(2)(f) of 1590
this section, "securitizing" means the packaging and sale of 1591
mortgage loans as a unit for sale as investment securities, but 1592
only to the extent of those activities. 1593

(g) Any person engaged in the retail sale of manufactured 1594
homes, mobile homes, or industrialized units if, in connection 1595
with obtaining financing by others for those retail sales, the 1596
person only assists the borrower by providing or transmitting the 1597
loan application and does not do any of the following: 1598

(i) Offer or negotiate the residential mortgage loan rates or 1599
terms; 1600

(ii) Provide any counseling with borrowers about residential 1601
mortgage loan rates or terms; 1602

(iii) Receive any payment or fee from any company or 1603
individual for assisting the borrower obtain or apply for 1604
financing to purchase the manufactured home, mobile home, or 1605
industrialized unit; 1606

(iv) Assist the borrower in completing the residential 1607
mortgage loan application. 1608

(h) A mortgage banker, provided it complies with section 1609
1322.022 of the Revised Code and holds a valid letter of exemption 1610
issued by the superintendent. For purposes of this section, 1611
"mortgage banker" means any person that makes, services, buys, or 1612
sells residential mortgage loans secured by a first lien, that 1613
underwrites the loans, and that meets at least one of the 1614
following criteria: 1615

(i) The person has been directly approved by the United 1616
States department of housing and urban development as a 1617
nonsupervised mortgagee with participation in the direct 1618
endorsement program. Division (G)(2)(h)(i) of this section 1619

includes a person that has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program and that makes loans in excess of the applicable loan limit set by the federal national mortgage association, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the United States department of housing and urban development. Division (G)(2)(h)(i) of this section does not include a mortgagee approved as a loan correspondent.

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

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

(iv) The person has been directly approved by the United States department of veterans affairs as a nonsupervised automatic lender. Division (G)(2)(h)(iv) of this section does not include a person directly approved by the United States department of

veterans affairs as a nonsupervised lender, an agent of a 1652
nonsupervised automatic lender, or an agent of a nonsupervised 1653
lender. 1654

(i) A nonprofit organization that is recognized as tax exempt 1655
under 26 U.S.C. 501(c)(3) and whose primary activity is the 1656
construction, remodeling, or rehabilitation of homes for use by 1657
low-income families, provided that the nonprofit organization 1658
makes no-profit mortgage loans or mortgage loans at zero per cent 1659
interest to low-income families and no fees accrue directly to the 1660
nonprofit organization from those mortgage loans and that the 1661
United States department of housing and urban development does not 1662
deny this exemption. 1663

(j) A credit union service organization, provided that the 1664
organization utilizes services provided by registered loan 1665
originators or that it holds a valid letter of exemption issued by 1666
the superintendent under section 1322.023 of the Revised Code and 1667
complies with that section. 1668

(H) "Operations manager" means the employee or owner 1669
responsible for the everyday operations, compliance requirements, 1670
and management of a mortgage broker business. 1671

(I) "Registered loan originator" means an individual to whom 1672
both of the following apply: 1673

(1) The individual is a loan originator and an employee of a 1674
depository institution, a subsidiary that is owned and controlled 1675
by a depository institution and regulated by a federal banking 1676
agency, or an institution regulated by the farm credit 1677
administration. 1678

(2) The individual is registered with, and maintains a unique 1679
identifier through, the nationwide mortgage licensing system and 1680
registry. 1681

(J) "Registrant" means any person that has been issued a 1682

mortgage broker certificate of registration under sections 1322.01 1683
to 1322.12 of the Revised Code. 1684

(K) "Superintendent of financial institutions" includes the 1685
deputy superintendent for consumer finance as provided in section 1686
1181.21 of the Revised Code. 1687

(L) "Table-funding mortgage loan" means a residential 1688
mortgage loan transaction in which the residential mortgage loan 1689
is initially payable to the mortgage broker, the mortgage broker 1690
does not use the mortgage broker's own funds to fund the 1691
transaction, and, by the terms of the mortgage or other agreement, 1692
the mortgage is simultaneously assigned to another person. 1693

(M) "Warehouse-lending mortgage loan" means a residential 1694
mortgage loan transaction in which the residential mortgage loan 1695
is initially payable to the mortgage broker, the mortgage broker 1696
uses the mortgage broker's own funds to fund the transaction, and 1697
the mortgage is sold or assigned before the mortgage broker 1698
receives a scheduled payment on the residential mortgage loan. 1699

(N) "Administrative or clerical tasks" means the receipt, 1700
collection, and distribution of information common for the 1701
processing or underwriting of a loan in the mortgage industry, and 1702
communication with a consumer to obtain information necessary for 1703
the processing or underwriting of a residential mortgage loan. 1704

(O) "Appraisal company" means a sole proprietorship, 1705
partnership, corporation, limited liability company, or any other 1706
business entity or association, that employs or retains the 1707
services of a person licensed or certified under Chapter 4763. of 1708
the Revised Code for purposes of performing residential real 1709
estate appraisals for mortgage loans. 1710

(P) "Depository institution" has the same meaning as in 1711
section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 1712
U.S.C. 1813, and includes any credit union. 1713

(Q) "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.

(R) "Immediate family" means an individual's spouse, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, or sister-in-law.

(S) "Individual" means a natural person.

(T) "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 loan originator or registered loan originator. For purposes of this division, to "perform" clerical or support duties ~~includes means~~ to do all of the following activities:

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

(2) Communicating with a buyer 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 buyers about residential mortgage loan rates or terms.

(U) "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 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.	1745
(V) "Nontraditional mortgage product" means any mortgage product other than a thirty-year fixed rate mortgage.	1746 1747
(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:	1748 1749 1750
(1) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;	1751 1752
(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;	1753 1754 1755
(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;	1756 1757 1758 1759
(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;	1760 1761 1762
(5) Offering to engage in any activity, or to act in any capacity, described in division (W) of this section.	1763 1764
(X) "Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage <u>or other equivalent consensual security interest</u> 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.	1765 1766 1767 1768 1769 1770 1771
(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	1772 1773 1774

Rico, Guam, American Samoa, the trust territory of the Pacific 1775
islands, the virgin islands, and the northern Mariana islands+. 1776

(Z) "Unique identifier" means a number or other identifier 1777
that permanently identifies a loan originator and is assigned by 1778
protocols established by the nationwide mortgage licensing system 1779
and registry or federal banking agencies to facilitate electronic 1780
tracking of loan originators and uniform identification of, and 1781
public access to, the employment history of and the publicly 1782
adjudicated disciplinary and enforcement actions against loan 1783
originators. 1784

Sec. 1322.02. (A)(1) No person, on the person's own behalf or 1785
on behalf of any other person, shall act as a mortgage broker 1786
without first having obtained a certificate of registration from 1787
the superintendent of financial institutions for every office to 1788
be maintained by the person for the transaction of business as a 1789
mortgage broker in this state. A registrant shall maintain an 1790
office location in this state for the transaction of business as a 1791
mortgage broker in this state. 1792

(2) No person shall act or hold that person's self out as a 1793
mortgage broker under the authority or name of a registrant or 1794
person exempt from sections 1322.01 to 1322.12 of the Revised Code 1795
without first having obtained a certificate of registration from 1796
the superintendent for every office to be maintained by the person 1797
for the transaction of business as a mortgage broker in this 1798
state. 1799

(B)(1) No individual shall act as a loan originator without 1800
first having obtained a license from the superintendent. A loan 1801
originator shall be employed by or associated with a mortgage 1802
broker or any person or entity listed in division (G)(2) of 1803
section 1322.01 of the Revised Code, but shall not be employed by 1804
or associated with more than one mortgage broker or person or 1805

entity at any one time. 1806

(2) An individual acting under the individual's authority as 1807
a registered loan originator shall not be required to be licensed 1808
under division (B)(1) of this section. 1809

(C)(1) ~~Each licensee~~ No person acting as a mortgage broker or 1810
loan originator shall fail to register with, and maintain a valid 1811
unique identifier issued by, the nationwide mortgage licensing 1812
system and registry. 1813

(2) No person shall use a ~~licensee's~~ mortgage broker's or 1814
loan originator's unique identifier for any purpose other than as 1815
set forth in the "Secure and Fair Enforcement for Mortgage 1816
Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101. 1817

Sec. 1322.022. (A) A mortgage banker seeking exemption from 1818
registration pursuant to division (G)(2)(h) of section 1322.01 of 1819
the Revised Code shall submit an application to the superintendent 1820
of financial institutions along with a nonrefundable fee of three 1821
hundred fifty dollars for each location of an office to be 1822
maintained by the mortgage banker. The application shall be in a 1823
form prescribed by the superintendent and shall include all of the 1824
following: 1825

(1) The mortgage banker's business name and state of 1826
incorporation or business registration; 1827

(2) The names of the owners, officers, or partners having 1828
control of the business; 1829

(3) An attestation to all of the following: 1830

(a) That the mortgage banker and its owners, officers, or 1831
partners identified in division (A)(2) of this section have not 1832
had a mortgage banker license, mortgage broker certificate of 1833
registration, or loan originator license, or any comparable 1834
authority, revoked in any governmental jurisdiction; 1835

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

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

(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.

(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.

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

(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;

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

(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.

(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 1866
accordance with Chapter 119. of the Revised Code. 1867

(C) All of the following conditions apply to any mortgage 1868
banker holding a valid letter of exemption: 1869

(1) The mortgage banker shall be subject to examination in 1870
the same manner as a registrant with respect to the conduct of the 1871
mortgage banker's loan originators. In conducting any out-of-state 1872
examination, a mortgage banker shall be responsible for paying the 1873
costs of the division in the same manner as a registrant. 1874

(2) The mortgage banker shall have an affirmative duty to 1875
supervise the conduct of its loan originators, and to cooperate 1876
with investigations by the division with respect to that conduct, 1877
in the same manner as is required of registrants. 1878

(3) The mortgage banker shall keep and maintain records of 1879
all transactions relating to the conduct of its loan originators 1880
in the same manner as is required of registrants. 1881

(4) The mortgage banker may provide the surety bond for its 1882
licensees in the same manner as is permitted for registrants. 1883

(D) A letter of exemption expires annually on the 1884
thirty-first day of December and may be renewed on or before that 1885
date by submitting an application that meets the requirements of 1886
division (A) of this section and a nonrefundable renewal fee of 1887
three hundred fifty dollars for each location of an office to be 1888
maintained by the mortgage banker. 1889

(E) The superintendent may issue a notice to revoke or 1890
suspend a letter of exemption if the superintendent finds that the 1891
letter was obtained through a false or fraudulent representation 1892
of a material fact, or the omission of a material fact, required 1893
by law, or that a condition for exemption is no longer being met. 1894
Prior to issuing an order of revocation or suspension, the 1895
mortgage banker shall be given an opportunity for a hearing in 1896

accordance with Chapter 119. of the Revised Code. 1897

(F) All information obtained by the division pursuant to an 1898
examination or investigation under this section shall be subject 1899
to the confidentiality requirements set forth in section 1322.061 1900
of the Revised Code. 1901

(G) All money collected under this section shall be deposited 1902
into the state treasury to the credit of the consumer finance fund 1903
created in section 1321.21 of the Revised Code. 1904

(H) A mortgage banker that holds a valid letter of exemption, 1905
and any licensee employed by the mortgage banker, shall not be 1906
required to comply with section 1322.062 of the Revised Code with 1907
respect to any transaction covered under the authority of an 1908
approval described in division (G)(2)(h) of section 1322.01 of the 1909
Revised Code. Compliance shall be required, however, with respect 1910
to transactions not covered under the authority of an approval 1911
described in that division. 1912

Sec. 1322.023. (A) A credit union service organization 1913
seeking exemption from registration pursuant to division (G)(2)(j) 1914
of section 1322.01 of the Revised Code shall submit an application 1915
to the superintendent of financial institutions along with a 1916
nonrefundable fee of three hundred fifty dollars for each location 1917
of an office to be maintained by the organization. The application 1918
shall be in a form prescribed by the superintendent and shall 1919
include all of the following: 1920

(1) The organization's business name and state of 1921
incorporation; 1922

(2) The names of the owners, officers, or partners having 1923
control of the organization; 1924

(3) An attestation to all of the following: 1925

(a) That the organization and its owners, officers, or 1926

partners identified in division (A)(2) of this section have not 1927
had a mortgage broker certificate of registration or loan 1928
originator license, or any comparable authority, revoked in any 1929
governmental jurisdiction; 1930

(b) That the organization and its owners, officers, or 1931
partners identified in division (A)(2) of this section have not 1932
been convicted of, or pleaded guilty or nolo contendere to, any of 1933
the following in a domestic, foreign, or military court: 1934

(i) During the seven-year period immediately preceding the 1935
date of application for exemption, ~~any felony or~~ a misdemeanor 1936
involving theft or any felony; 1937

(ii) At any time prior to the date the application for 1938
exemption is approved, a felony involving an act of fraud, 1939
dishonesty, a breach of trust, theft, or money laundering. 1940

(c) That, with respect to financing residential mortgage 1941
loans, the organization conducts business with residents of this 1942
state or secures its loans with property located in this state. 1943

(4) The names of all loan originators or licensees under the 1944
organization's control and direction; 1945

(5) An acknowledgment of understanding that the organization 1946
is subject to the regulatory authority of the division of 1947
financial institutions; 1948

(6) Any further information that the superintendent may 1949
require. 1950

(B)(1) If the superintendent determines that the credit union 1951
service organization honestly made the attestation required under 1952
division (A)(3) of this section and otherwise qualifies for 1953
exemption, the superintendent shall issue a letter of exemption. 1954
Additional certified copies of a letter of exemption shall be 1955
provided upon request and the payment of seventy-five dollars per 1956

copy. 1957

(2) If the superintendent determines that the organization 1958
does not qualify for exemption, the superintendent shall issue a 1959
notice of denial, and the organization may request a hearing in 1960
accordance with Chapter 119. of the Revised Code. 1961

(C) All of the following conditions apply to any credit union 1962
service organization holding a valid letter of exemption: 1963

(1) The organization shall be subject to examination in the 1964
same manner as a registrant with respect to the conduct of the 1965
organization's loan originators. In conducting any out-of-state 1966
examination, the organization shall be responsible for paying the 1967
costs of the division in the same manner as a registrant. 1968

(2) The organization shall have an affirmative duty to 1969
supervise the conduct of its loan originators, and to cooperate 1970
with investigations by the division with respect to that conduct, 1971
in the same manner as is required of registrants. 1972

(3) The organization shall keep and maintain records of all 1973
transactions relating to the conduct of its loan originators in 1974
the same manner as is required of registrants. 1975

(4) The organization may provide the surety bond for its 1976
licensees in the same manner as is permitted for registrants. 1977

(D) A letter of exemption expires annually on the 1978
thirty-first day of December and may be renewed on or before that 1979
date by submitting an application that meets the requirements of 1980
division (A) of this section and a nonrefundable renewal fee of 1981
three hundred fifty dollars for each location of an office to be 1982
maintained by the credit union service organization. 1983

(E) The superintendent may issue a notice to revoke or 1984
suspend a letter of exemption if the superintendent finds that the 1985
letter was obtained through a false or fraudulent representation of 1986

a material fact, or the omission of a material fact, required by 1987
law, or that a condition for exemption is no longer being met. 1988
Prior to issuing an order of revocation or suspension, the credit 1989
union service organization shall be given an opportunity for a 1990
hearing in accordance with Chapter 119. of the Revised Code. 1991

(F) All information obtained by the division pursuant to an 1992
examination or investigation under this section shall be subject 1993
to the confidentiality requirements set forth in section 1322.061 1994
of the Revised Code. 1995

(G) All money collected under this section shall be deposited 1996
into the state treasury to the credit of the consumer finance fund 1997
created in section 1321.21 of the Revised Code. 1998

Sec. 1322.03. (A) An application for a certificate of 1999
registration as a mortgage broker shall be in writing, under oath, 2000
and in the form prescribed by the superintendent of financial 2001
institutions. The application shall be accompanied by a 2002
nonrefundable application fee of five hundred dollars for each 2003
location of an office to be maintained by the applicant in 2004
accordance with division (A) of section 1322.02 of the Revised 2005
Code and any additional fee required by the nationwide mortgage 2006
licensing system and registry. The application shall provide all 2007
of the following: 2008

(1) The location or locations where the business is to be 2009
transacted and whether any location is a residence. If any 2010
location where the business is to be transacted is a residence, 2011
the superintendent may require that the application be accompanied 2012
by a copy of a zoning permit authorizing the use of the residence 2013
for commercial purposes, or by a written opinion or other document 2014
issued by the county or political subdivision where the residence 2015
is located certifying that the use of the residence to transact 2016
business as a mortgage broker is not prohibited by the county or 2017

political subdivision.	2018
(2)(a) In the case of a sole proprietor, the name and address of the sole proprietor;	2019 2020
(b) In the case of a partnership, the name and address of each partner;	2021 2022
(c) In the case of a corporation, the name and address of each shareholder owning five per cent or more of the corporation;	2023 2024
(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.	2025 2026 2027
(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.	2028 2029 2030 2031 2032 2033
(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;	2034 2035 2036 2037 2038 2039 2040 2041 2042 2043
(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;	2044 2045 2046 2047

(6) Evidence of compliance with the surety bond requirements	2048
of section 1322.05 of the Revised Code and with sections 1322.01	2049
to 1322.12 of the Revised Code;	2050
(7) In the case of a foreign business entity, evidence that	2051
it maintains a license or registration pursuant to Chapter 1703.,	2052
1705., 1775., 1776., 1777., 1782., or 1783. of the Revised Code to	2053
transact business in this state;	2054
(8) Evidence that the applicant's operations manager has	2055
successfully completed the written test required under division	2056
(A) of section 1322.051 of the Revised Code;	2057
(9) Any further information that the superintendent requires.	2058
(B) Upon the filing of the application and payment of the	2059
nonrefundable application fee and any fee required by the	2060
nationwide mortgage licensing system and registry, the	2061
superintendent of financial institutions shall investigate the	2062
applicant, and any individual whose identity is required to be	2063
disclosed in the application, as set forth in division (B) of this	2064
section.	2065
(1)(a) Notwithstanding division (K) of section 121.08 of the	2066
Revised Code, the superintendent shall obtain a criminal history	2067
records check and, as part of that records check, request that	2068
criminal record information from the federal bureau of	2069
investigation be obtained. To fulfill this requirement, the	2070
superintendent shall do either of the following:	2071
(i) Request the superintendent of the bureau of criminal	2072
identification and investigation, or a vendor approved by the	2073
bureau, to conduct a criminal records check based on the	2074
applicant's fingerprints or, if the fingerprints are unreadable,	2075
based on the applicant's social security number, in accordance	2076
with division (A)(12) of section 109.572 of the Revised Code;	2077
(ii) Authorize the nationwide mortgage licensing system and	2078

registry to request a criminal history background check. 2079

(b) Any fee required under division (C)(3) of section 109.572 2080
of the Revised Code or by the nationwide mortgage licensing system 2081
and registry shall be paid by the applicant. 2082

(2) The superintendent shall conduct a civil records check. 2083

(3) If, in order to issue a certificate of registration to an 2084
applicant, additional investigation by the superintendent outside 2085
this state is necessary, the superintendent may require the 2086
applicant to advance sufficient funds to pay the actual expenses 2087
of the investigation, if it appears that these expenses will 2088
exceed five hundred dollars. The superintendent shall provide the 2089
applicant with an itemized statement of the actual expenses that 2090
the applicant is required to pay. 2091

(C) The superintendent shall pay all funds advanced and 2092
application and renewal fees and penalties the superintendent 2093
receives pursuant to this section and section 1322.04 of the 2094
Revised Code to the treasurer of state to the credit of the 2095
consumer finance fund created in section 1321.21 of the Revised 2096
Code. 2097

(D) If an application for a mortgage broker certificate of 2098
registration does not contain all of the information required 2099
under division (A) of this section, and if that information is not 2100
submitted to the superintendent or to the nationwide mortgage 2101
licensing system and registry within ninety days after the 2102
superintendent or the nationwide mortgage licensing system and 2103
registry requests the information in writing, including by 2104
electronic transmission or facsimile, the superintendent may 2105
consider the application withdrawn. 2106

(E) A mortgage broker certificate of registration and the 2107
authority granted under that certificate is not transferable or 2108
assignable and cannot be franchised by contract or any other 2109

means. 2110

(F) The registration requirements of this chapter apply to 2111
any person acting as a mortgage broker, and no person is exempt 2112
from the requirements of this chapter on the basis of prior work 2113
or employment as a mortgage broker. 2114

(G) The superintendent may establish relationships or enter 2115
into contracts with the nationwide mortgage licensing system and 2116
registry, or any entities designated by it, to collect and 2117
maintain records and process transaction fees or other fees 2118
related to mortgage broker certificates of registration or the 2119
persons associated with a mortgage broker. 2120

Sec. 1322.031. (A) An application for a license as a loan 2121
originator shall be in writing, under oath, and in the form 2122
prescribed by the superintendent of financial institutions. The 2123
application shall be accompanied by a nonrefundable application 2124
fee of one hundred fifty dollars and any additional fee required 2125
by the nationwide mortgage licensing system and registry. 2126

(B)(1) The application shall provide evidence, acceptable to 2127
the superintendent, that the applicant has successfully completed 2128
at least twenty-four hours of pre-licensing instruction consisting 2129
of all of the following: 2130

(a) Twenty hours of instruction in a course or program of 2131
study reviewed and approved by the nationwide mortgage licensing 2132
system and registry; 2133

(b) Four hours of instruction in a course or program of study 2134
reviewed and approved by the superintendent concerning state 2135
lending laws and the Ohio consumer sales practices act, Chapter 2136
1345. of the Revised Code, as it applies to registrants and 2137
licensees. 2138

(2) Notwithstanding division (B)(1) of this section, until 2139

the nationwide mortgage licensing system and registry implements a 2140
review and approval program, the application shall provide 2141
evidence, as determined by the superintendent, that the applicant 2142
has successfully completed at least twenty-four hours of 2143
instruction in a course or program of study approved by the 2144
superintendent that consists of at least all of the following: 2145

(a) Four hours of instruction concerning state and federal 2146
mortgage lending laws, which shall include no less than two hours 2147
on this chapter; 2148

(b) Four hours of instruction concerning the Ohio consumer 2149
sales practices act, Chapter 1345. of the Revised Code, as it 2150
applies to registrants and licensees; 2151

(c) Four hours of instruction concerning the loan application 2152
process; 2153

(d) Two hours of instruction concerning the underwriting 2154
process; 2155

(e) Two hours of instruction concerning the secondary market 2156
for mortgage loans; 2157

(f) Four hours of instruction concerning the loan closing 2158
process; 2159

(g) Two hours of instruction covering basic mortgage 2160
financing concepts and terms; 2161

(h) Two hours of instruction concerning the ethical 2162
responsibilities of a registrant and a licensee, including with 2163
respect to confidentiality, consumer counseling, and the duties 2164
and standards of care created in section 1322.081 of the Revised 2165
Code. 2166

(3) For purposes of division (B)(1)(a) of this section, the 2167
review and approval of a course or program of study includes the 2168
review and approval of the provider of the course or program of 2169

study. 2170

(4) If an applicant held a valid loan originator license 2171
issued by this state at any time during the immediately preceding 2172
five-year period, the applicant shall not be required to complete 2173
any additional pre-licensing instruction. For this purpose, any 2174
time during which the individual is a registered loan originator 2175
shall not be taken into account. 2176

(5) A person having successfully completed the pre-licensing 2177
education requirement reviewed and approved by the nationwide 2178
mortgage licensing system and registry for any state within the 2179
previous five years shall be granted credit toward completion of 2180
the pre-licensing education requirement of this state. 2181

(C) In addition to the information required under division 2182
(B) of this section, the application shall provide both of the 2183
following: 2184

(1) Evidence that the applicant passed a written test that 2185
meets the requirements described in division (B) of section 2186
1322.051 of the Revised Code; 2187

(2) Any further information that the superintendent requires. 2188

(D) Upon the filing of the application and payment of the 2189
application fee and any fee required by the nationwide mortgage 2190
licensing system and registry, the superintendent of financial 2191
institutions shall investigate the applicant as set forth in 2192
division (D) of this section. 2193

(1)(a) Notwithstanding division (K) of section 121.08 of the 2194
Revised Code, the superintendent shall obtain a criminal history 2195
records check and, as part of the records check, request that 2196
criminal record information from the federal bureau of 2197
investigation be obtained. To fulfill this requirement, the 2198
superintendent shall do either of the following: 2199

(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 2231
licensing system and registry to obtain the following: 2232

(i) An independent credit report from a consumer reporting 2233
agency; 2234

(ii) Information related to any administrative, civil, or 2235
criminal findings by any governmental jurisdiction. 2236

(2) In order to effectuate the purposes of divisions 2237
(E)(1)(a) and (E)(1)(b)(ii) of this section, the superintendent 2238
may use the conference of state bank supervisors, or a wholly 2239
owned subsidiary, as a channeling agent for requesting information 2240
from and distributing information to the United States department 2241
of justice or any other governmental agency. The superintendent 2242
may also use the nationwide mortgage licensing system and registry 2243
as a channeling agent for requesting information from and 2244
distributing information to any source related to matters subject 2245
to those divisions of this section. 2246

(F) The superintendent shall pay all funds advanced and 2247
application and renewal fees and penalties the superintendent 2248
receives pursuant to this section and section 1322.041 of the 2249
Revised Code to the treasurer of state to the credit of the 2250
consumer finance fund created in section 1321.21 of the Revised 2251
Code. 2252

(G) If an application for a loan originator license does not 2253
contain all of the information required under this section, and if 2254
that information is not submitted to the superintendent or to the 2255
nationwide mortgage licensing system and registry within ninety 2256
days after the superintendent or the nationwide mortgage licensing 2257
system and registry requests the information in writing, including 2258
by electronic transmission or facsimile, the superintendent may 2259
consider the application withdrawn. 2260

(H)(1) The business of a loan originator shall principally be 2261

transacted at an office of the mortgage broker with whom the 2262
licensee is employed or associated, which office is registered in 2263
accordance with division (A) of section 1322.02 of the Revised 2264
Code. Each original loan originator license shall be deposited 2265
with and maintained by the mortgage broker at the mortgage 2266
broker's main office. A copy of the license shall be maintained 2267
and displayed at the office where the loan originator principally 2268
transacts business. 2269

(2) If a loan originator's employment or association is 2270
terminated for any reason, the mortgage broker shall return the 2271
original loan originator license to the superintendent within five 2272
business days after the termination. The licensee may request the 2273
transfer of the license to another mortgage broker by submitting a 2274
transfer application, along with a fifteen dollar fee and any fee 2275
required by the national mortgage licensing system and registry, 2276
to the superintendent or may request the superintendent in writing 2277
to hold the license in escrow. Any licensee whose license is held 2278
in escrow shall cease activity as a loan originator. A licensee 2279
whose license is held in escrow shall be required to apply for 2280
renewal annually and to comply with the annual continuing 2281
education requirement. 2282

(3) A mortgage broker may employ or be associated with a loan 2283
originator on a temporary basis pending the transfer of the loan 2284
originator's license to the mortgage broker, if the mortgage 2285
broker receives written confirmation from the superintendent that 2286
the loan originator is licensed under sections 1322.01 to 1322.12 2287
of the Revised Code. 2288

(4) Notwithstanding divisions (H)(1) to (3) of this section, 2289
if a licensee is employed by or associated with a person or entity 2290
listed in division (G)(2) of section 1322.01 of the Revised Code, 2291
all of the following apply: 2292

(a) The licensee shall maintain and display the original loan 2293

originator license at the office where the licensee principally 2294
transacts business; 2295

(b) If the loan originator's employment or association is 2296
terminated, the loan originator shall return the original loan 2297
originator license to the superintendent within five business days 2298
after termination. The licensee may request the transfer of the 2299
license to a mortgage broker or another person or entity listed in 2300
division (G)(2) of section 1322.01 of the Revised Code by 2301
submitting a transfer application, along with a fifteen-dollar fee 2302
and any fee required by the national mortgage licensing system and 2303
registry, to the superintendent or may request the superintendent 2304
in writing to hold the license in escrow. A licensee whose license 2305
is held in escrow shall cease activity as a loan originator. A 2306
licensee whose license is held in escrow shall be required to 2307
apply for renewal annually and to comply with the annual 2308
continuing education requirement. 2309

(c) The licensee may seek to be employed or associated with a 2310
mortgage broker or person or entity listed in division (G)(2) of 2311
section 1322.01 of the Revised Code if the mortgage broker or 2312
person or entity receives written confirmation from the 2313
superintendent that the loan originator is licensed under sections 2314
1322.01 to 1322.12 of the Revised Code. 2315

(I) The superintendent may establish relationships or enter 2316
into contracts with the nationwide mortgage licensing system and 2317
registry, or any entities designated by it, to collect and 2318
maintain records and process transaction fees or other fees 2319
related to loan originator licenses or the persons associated with 2320
a licensee. 2321

(J) A loan originator license, or the authority granted under 2322
that license, is not assignable and cannot be franchised by 2323
contract or any other means. 2324

Sec. 1322.04. (A) Upon the conclusion of the investigation 2325
required under division (B) of section 1322.03 of the Revised 2326
Code, the superintendent of financial institutions shall issue a 2327
certificate of registration to the applicant if the superintendent 2328
finds that the following conditions are met: 2329

(1) The application is accompanied by the application fee and 2330
any fee required by the nationwide mortgage licensing system and 2331
registry. 2332

(a) If a check or other draft instrument is returned to the 2333
superintendent for insufficient funds, the superintendent shall 2334
notify the applicant by certified mail, return receipt requested, 2335
that the application will be withdrawn unless the applicant, 2336
within thirty days after receipt of the notice, submits the 2337
application fee and a one-hundred-dollar penalty to the 2338
superintendent. If the applicant does not submit the application 2339
fee and penalty within that time period, or if any check or other 2340
draft instrument used to pay the fee or penalty is returned to the 2341
superintendent for insufficient funds, the application shall be 2342
withdrawn. 2343

(b) If a check or other draft instrument is returned to the 2344
superintendent for insufficient funds after the certificate of 2345
registration has been issued, the superintendent shall notify the 2346
registrant by certified mail, return receipt requested, that the 2347
certificate of registration issued in reliance on the check or 2348
other draft instrument will be canceled unless the registrant, 2349
within thirty days after receipt of the notice, submits the 2350
application fee and a one-hundred-dollar penalty to the 2351
superintendent. If the registrant does not submit the application 2352
fee and penalty within that time period, or if any check or other 2353
draft instrument used to pay the fee or penalty is returned to the 2354
superintendent for insufficient funds, the certificate of 2355

registration shall be canceled immediately without a hearing, and 2356
the registrant shall cease activity as a mortgage broker. 2357

(2) If the application is for a location that is a residence, 2358
evidence that the use of the residence to transact business as a 2359
mortgage broker is not prohibited. 2360

(3) The person designated on the application pursuant to 2361
division (A)(3) of section 1322.03 of the Revised Code meets the 2362
experience requirements provided in division (A)(4) of section 2363
1322.03 of the Revised Code and the education requirements set 2364
forth in division (A)(5) of section 1322.03 of the Revised Code. 2365

(4) The applicant maintains all necessary filings and 2366
approvals required by the secretary of state. 2367

(5) The applicant complies with the surety bond requirements 2368
of section 1322.05 of the Revised Code. 2369

(6) The applicant complies with sections 1322.01 to 1322.12 2370
of the Revised Code and the rules adopted thereunder. 2371

(7) Neither the applicant nor any person whose identity is 2372
required to be disclosed on an application for a mortgage broker 2373
certificate of registration has had a mortgage broker certificate 2374
of registration or loan originator license, or any comparable 2375
authority, revoked in any governmental jurisdiction or has pleaded 2376
guilty or nolo contendere to or been convicted of any of the 2377
following in a domestic, foreign, or military court: 2378

(a) During the seven-year period immediately preceding the 2379
date of application for the certificate of registration, ~~any~~ 2380
~~felony or~~ a misdemeanor involving theft or any felony; 2381

(b) At any time prior to the date the application for the 2382
certificate of registration is approved, a felony involving an act 2383
of fraud, dishonesty, a breach of trust, theft, or money 2384
laundering. 2385

(8) Based on the totality of the circumstances and 2386
information submitted in the application, the applicant has proven 2387
to the superintendent, by a preponderance of the evidence, that 2388
the applicant is of good business repute, appears qualified to act 2389
as a mortgage broker, has fully complied with sections 1322.01 to 2390
1322.12 of the Revised Code and the rules adopted thereunder, and 2391
meets all of the conditions for issuing a mortgage broker 2392
certificate of registration. 2393

(9) The applicant's operations manager successfully completed 2394
the examination required under division (A) of section 1322.051 of 2395
the Revised Code. 2396

(10) The applicant's financial responsibility, experience, 2397
character, and general fitness command the confidence of the 2398
public and warrant the belief that the business will be operated 2399
honestly and fairly in compliance with the purposes of sections 2400
1322.01 to 1322.12 of the Revised Code and the rules adopted 2401
thereunder. The superintendent shall not use a credit score as the 2402
sole basis for registration denial. 2403

(B) For purposes of determining whether an applicant that is 2404
a partnership, corporation, or other business entity or 2405
association has met the conditions set forth in divisions (A)(7), 2406
(A)(8), and (A)(10) of this section, the superintendent shall 2407
determine which partners, shareholders, or persons named in the 2408
application pursuant to division (A)(2) of section 1322.03 of the 2409
Revised Code must meet the conditions set forth in divisions 2410
(A)(7), (A)(8), and (A)(10) of this section. This determination 2411
shall be based on the extent and nature of the partner's, 2412
shareholder's, or person's ownership interest in the partnership, 2413
corporation, or other business entity or association that is the 2414
applicant and on whether the person is in a position to direct, 2415
control, or adversely influence the operations of the applicant. 2416

(C) The certificate of registration issued pursuant to 2417

division (A) of this section may be renewed annually on or before 2418
the thirty-first day of December if the superintendent finds that 2419
all of the following conditions are met: 2420

(1) The renewal application is accompanied by a nonrefundable 2421
renewal fee of five hundred dollars for each location of an office 2422
to be maintained by the applicant in accordance with division (A) 2423
of section 1322.02 of the Revised Code and any fee required by the 2424
nationwide mortgage licensing system and registry. If a check or 2425
other draft instrument is returned to the superintendent for 2426
insufficient funds, the superintendent shall notify the registrant 2427
by certified mail, return receipt requested, that the certificate 2428
of registration renewed in reliance on the check or other draft 2429
instrument will be canceled unless the registrant, within thirty 2430
days after receipt of the notice, submits the renewal fee and a 2431
one-hundred-dollar penalty to the superintendent. If the 2432
registrant does not submit the renewal fee and penalty within that 2433
time period, or if any check or other draft instrument used to pay 2434
the fee or penalty is returned to the superintendent for 2435
insufficient funds, the certificate of registration shall be 2436
canceled immediately without a hearing and the registrant shall 2437
cease activity as a mortgage broker. 2438

(2) The operations manager designated under division (A)(3) 2439
of section 1322.03 of the Revised Code has completed, at least 2440
eight hours of continuing education as required under section 2441
1322.052 of the Revised Code. 2442

(3) The applicant meets the conditions set forth in divisions 2443
(A)(2) to (10) of this section. 2444

(4) The applicant's mortgage broker certificate of 2445
registration is not subject to an order of suspension or an unpaid 2446
and past due fine imposed by the superintendent. 2447

(D)(1) Subject to division (D)(2) of this section, if a 2448

renewal fee or additional fee required by the nationwide mortgage 2449
licensing system and registry is received by the superintendent 2450
after the thirty-first day of December, the mortgage broker 2451
certificate of registration shall not be considered renewed, and 2452
the applicant shall cease activity as a mortgage broker. 2453

(2) Division (D)(1) of this section shall not apply if the 2454
applicant, no later than the thirty-first day of January, submits 2455
the renewal fee or additional fee and a one-hundred-dollar penalty 2456
to the superintendent. 2457

(E) If the person designated as the operations manager 2458
pursuant to division (A)(3) of section 1322.03 of the Revised Code 2459
is no longer the operations manager, the registrant shall do all 2460
of the following: 2461

(1) Within ninety days after the departure of the designated 2462
operations manager, designate another person as the operations 2463
manager; 2464

(2) Within ten days after the designation described in 2465
division (E)(1) of this section, notify the superintendent in 2466
writing of the designation; 2467

(3) Submit any additional information that the superintendent 2468
requires to establish that the newly designated operations manager 2469
complies with the requirements set forth in section 1322.03 of the 2470
Revised Code. 2471

(F) The registrant shall cease operations if it is without an 2472
operations manager approved by the superintendent for more than 2473
one hundred eighty days unless otherwise authorized in writing by 2474
the superintendent due to exigent circumstances. 2475

(G) Mortgage broker certificates of registration issued on or 2476
after May 1, 2010, annually expire on the thirty-first day of 2477
December. 2478

Sec. 1322.041. (A) Upon the conclusion of the investigation 2479
required under division (D) of section 1322.031 of the Revised 2480
Code, the superintendent of financial institutions shall issue a 2481
loan originator license to the applicant if the superintendent 2482
finds that the following conditions are met: 2483

(1) The application is accompanied by the application fee and 2484
any fee required by the nationwide mortgage licensing system and 2485
registry. 2486

(a) If a check or other draft instrument is returned to the 2487
superintendent for insufficient funds, the superintendent shall 2488
notify the applicant by certified mail, return receipt requested, 2489
that the application will be withdrawn unless the applicant, 2490
within thirty days after receipt of the notice, submits the 2491
application fee and a one-hundred-dollar penalty to the 2492
superintendent. If the applicant does not submit the application 2493
fee and penalty within that time period, or if any check or other 2494
draft instrument used to pay the fee or penalty is returned to the 2495
superintendent for insufficient funds, the application shall be 2496
withdrawn. 2497

(b) If a check or other draft instrument is returned to the 2498
superintendent for insufficient funds after the license has been 2499
issued, the superintendent shall notify the licensee by certified 2500
mail, return receipt requested, that the license issued in 2501
reliance on the check or other draft instrument will be canceled 2502
unless the licensee, within thirty days after receipt of the 2503
notice, submits the application fee and a one-hundred-dollar 2504
penalty to the superintendent. If the licensee does not submit the 2505
application fee and penalty within that time period, or if any 2506
check or other draft instrument used to pay the fee or penalty is 2507
returned to the superintendent for insufficient funds, the license 2508
shall be canceled immediately without a hearing, and the licensee 2509

shall cease activity as a loan originator. 2510

(2) The applicant complies with sections 1322.01 to 1322.12 2511
of the Revised Code and the rules adopted thereunder. 2512

~~(3)(a) During the seven-year period immediately preceding the~~ 2513
~~date of application for the license, the~~ The applicant has not 2514
been convicted of or pleaded guilty or nolo contendere to any 2515
~~felony or a misdemeanor involving theft of the following~~ in a 2516
domestic, foreign, or military court. 2517

(a) During the seven-year period immediately preceding the 2518
date of application for the license, a misdemeanor involving theft 2519
or any felony; 2520

(b) At any time prior to the date the application for the 2521
license is approved, ~~the applicant has not been convicted of or~~ 2522
~~pleaded guilty to~~ a felony involving an act of fraud, dishonesty, 2523
a breach of trust, theft, or money laundering ~~in a domestic,~~ 2524
~~foreign, or military court.~~ 2525

(4) Based on the totality of the circumstances and 2526
information submitted in the application, the applicant has proven 2527
to the superintendent, by a preponderance of the evidence, that 2528
the applicant is of good business repute, appears qualified to act 2529
as a loan originator, has fully complied with sections 1322.01 to 2530
1322.12 of the Revised Code and the rules adopted thereunder, and 2531
meets all of the conditions for issuing a loan originator license. 2532

(5) The applicant successfully completed the written test 2533
required under division (B) of section 1322.051 of the Revised 2534
Code and completed the prelicensing instruction set forth in 2535
division (B) of section 1322.031 of the Revised Code. 2536

(6) The applicant's financial responsibility, character, and 2537
general fitness command the confidence of the public and warrant 2538
the belief that the business will be operated honestly and fairly 2539
in compliance with the purposes of sections 1322.01 to 1322.12 of 2540

the Revised Code. The superintendent shall not use a credit score 2541
as the sole basis for a license denial. 2542

(7) The applicant is in compliance with the surety bond 2543
requirements of section 1322.05 of the Revised Code. 2544

(8) The applicant has not had a loan originator license, or 2545
comparable authority, revoked in any governmental jurisdiction. 2546

(B) The license issued under division (A) of this section may 2547
be renewed annually on or before the thirty-first day of December 2548
if the superintendent finds that all of the following conditions 2549
are met: 2550

(1) The renewal application is accompanied by a nonrefundable 2551
renewal fee of one hundred fifty dollars and any fee required by 2552
the nationwide mortgage licensing system and registry. If a check 2553
or other draft instrument is returned to the superintendent for 2554
insufficient funds, the superintendent shall notify the licensee 2555
by certified mail, return receipt requested, that the license 2556
renewed in reliance on the check or other draft instrument will be 2557
canceled unless the licensee, within thirty days after receipt of 2558
the notice, submits the renewal fee and a one-hundred-dollar 2559
penalty to the superintendent. If the licensee does not submit the 2560
renewal fee and penalty within that time period, or if any check 2561
or other draft instrument used to pay the fee or penalty is 2562
returned to the superintendent for insufficient funds, the license 2563
shall be canceled immediately without a hearing, and the licensee 2564
shall cease activity as a loan originator. 2565

(2) The applicant has completed at least eight hours of 2566
continuing education as required under section 1322.052 of the 2567
Revised Code. 2568

(3) The applicant meets the conditions set forth in divisions 2569
(A)(2) to (8) of this section; provided, however, that an 2570
applicant who was issued a loan officer license prior to January 2571

1, 2010, and has continuously maintained that license shall not be 2572
required to meet the condition described in division (B)(1)(b) of 2573
section 1322.031 of the Revised Code. 2574

(4) The applicant's license is not subject to an order of 2575
suspension or an unpaid and past due fine imposed by the 2576
superintendent. 2577

(C)(1) Subject to division (C)(2) of this section, if a 2578
license renewal application or renewal fee, including any fee 2579
required by the nationwide mortgage licensing system and registry, 2580
is received by the superintendent after the thirty-first day of 2581
December, the license shall not be considered renewed, and the 2582
applicant shall cease activity as a loan originator. 2583

(2) Division (C)(1) of this section shall not apply if the 2584
applicant, no later than the thirty-first day of January, submits 2585
the renewal application and fees and a one-hundred-dollar penalty 2586
to the superintendent. 2587

(D) Loan originator licenses issued on or after May 1, 2010, 2588
annually expire on the thirty-first day of December. 2589

Sec. 1322.062. (A)(1) Within three business days after taking 2590
an application for a residential mortgage loan from a buyer, a 2591
registrant or licensee shall deliver to the buyer a residential 2592
mortgage loan origination disclosure statement that contains all 2593
of the following: 2594

(a) The name, address, and telephone number of the buyer; 2595

(b) The typewritten name of the loan originator and the 2596
number designated on the loan originator's license; 2597

(c) The street address, telephone number, and facsimile 2598
number of the registrant and the number designated on the 2599
registrant's certificate of registration; 2600

(d) The signature of the loan originator or registrant; 2601

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

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

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

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

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

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

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

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

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

whichever is earlier. 2632

(C) A registrant or licensee shall deliver to the buyer, 2633
immediately upon receipt, a copy of any nonproprietary or publicly 2634
available credit score and report obtained regarding the buyer by 2635
the registrant or licensee for the purpose of the residential 2636
mortgage loan application. 2637

If the loan originator or registrant uses an automated 2638
valuation model to determine an appraisal report, the registrant 2639
or licensee also shall include a copy of the automated valuation 2640
model report. 2641

(D) A registrant or licensee shall deliver to the buyer, at 2642
the same time that the registrant or licensee delivers the 2643
residential mortgage loan origination disclosure statement 2644
pursuant to division (A) of this section, a both of the following 2645
documents: 2646

(1) A good faith estimate statement that discloses the amount 2647
of or range of charges for the specific settlement services the 2648
buyer is likely to incur in connection with the residential 2649
mortgage loan. The good faith estimate statement shall meet the 2650
requirements of the "Real Estate Settlement Procedures Act," 88 2651
Stat. 1724 (1974), 12 U.S.C.A. 2601 et seq., ~~and shall include the~~ 2652
~~following~~ 2653

(2) An underlined notice in at least ten-point type, new 2654
roman style, as follows: 2655

"Nature of Relationship: In connection with this residential 2656
mortgage loan, you, the borrower(s), has/have requested assistance 2657
from (company name) in arranging credit. We do not 2658
distribute all products in the marketplace and cannot guarantee 2659
the lowest rate. 2660

Termination: This agreement will continue until one of the 2661
following events occur: 2662

1. The loan closes.	2663
2. The request is denied.	2664
3. The borrower withdraws the request.	2665
4. The borrower decides to use another source for origination.	2666 2667
5. The borrower is provided a revised good faith estimate statement.	2668 2669
Notice to borrower(s): Signing this document does not obligate you to obtain a residential mortgage loan through this mortgage originator nor is this a loan commitment or an approval; nor is your interest rate locked at this time unless otherwise disclosed on a separate Rate Lock Disclosure Form. Do not sign this document until you have read and understood the information in it. You will receive a redisclosure of any increase in interest rate or if the total sum of disclosed settlement/closing costs increases by 10% or more of the original estimate. Should any such increase occur, mandatory redisclosure must occur prior to the settlement or close of escrow."	2670 2671 2672 2673 2674 2675 2676 2677 2678 2679 2680
(E) No registrant or licensee shall fail to comply with this section.	2681 2682
Sec. 1322.07. No registrant, licensee, person required to be registered or licensed under sections 1322.01 to 1322.12 of the Revised Code, or individual disclosed in an application as required by division (A)(2) of section 1322.03 of the Revised Code shall do any of the following:	2683 2684 2685 2686 2687
(A) Obtain a mortgage broker certificate of registration or loan originator license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application;	2688 2689 2690 2691 2692

(B) Make false or misleading statements of a material fact, 2693
omissions of statements required by state or federal law, or false 2694
promises regarding a material fact, through advertising or other 2695
means, or engage in a continued course of misrepresentations; 2696

(C) Engage in conduct that constitutes improper, fraudulent, 2697
or dishonest dealings; 2698

(D) Fail to notify the division of financial institutions 2699
within thirty days after any of the following: 2700

(1) Being convicted of or pleading guilty or nolo contendere 2701
to a felony in a domestic, foreign, or military court; 2702

(2) Being convicted of or pleading guilty or nolo contendere 2703
to any criminal offense involving theft, receiving stolen 2704
property, embezzlement, forgery, fraud, passing bad checks, money 2705
laundering, breach of trust, dishonesty, or drug trafficking, or 2706
any criminal offense involving money or securities, in a domestic, 2707
foreign, or military court; 2708

(3) Having a mortgage broker certificate of registration or 2709
loan originator license, or any comparable authority, revoked in 2710
any governmental jurisdiction. 2711

(E) Knowingly make, propose, or solicit fraudulent, false, or 2712
misleading statements on any mortgage loan document or on any 2713
document related to a mortgage loan, including a mortgage 2714
application, real estate appraisal, or real estate settlement or 2715
closing document. For purposes of this division, "fraudulent, 2716
false, or misleading statements" does not include mathematical 2717
errors, inadvertent transposition of numbers, typographical 2718
errors, or any other bona fide error. 2719

(F) Knowingly instruct, solicit, propose, or otherwise cause 2720
a buyer to sign in blank a mortgage related document; 2721

(G) Knowingly compensate, instruct, induce, coerce, or 2722

intimidate, or attempt to compensate, instruct, induce, coerce, or 2723
intimidate, a person licensed or certified under Chapter 4763. of 2724
the Revised Code for the purpose of corrupting or improperly 2725
influencing the independent judgment of the person with respect to 2726
the value of the dwelling offered as security for repayment of a 2727
mortgage loan; 2728

(H) Promise to refinance a loan in the future at a lower 2729
interest rate or with more favorable terms, unless the promise is 2730
set forth in writing and is initialed by the buyer; 2731

(I) Engage in any unfair, deceptive, or unconscionable act or 2732
practice prohibited under sections 1345.01 to 1345.13 of the 2733
Revised Code. 2734

Sec. 1322.074. (A) Except as otherwise provided in division 2735
(B) of this section, no registrant, or any member of the immediate 2736
family of an owner of a registrant, shall own or control a 2737
majority interest in an appraisal company. 2738

(B) Division (A) of this section shall not apply to any 2739
registrant, or any member of the immediate family of an owner of a 2740
registrant, who, on ~~the effective date of this amendment~~ January 2741
1, 2010, directly or indirectly owns or controls a majority 2742
interest in an appraisal company. However, such ownership or 2743
control is subject to the following conditions: 2744

(1) The registrant and members of the immediate family of an 2745
owner of a registrant shall not increase their interest in the 2746
company. 2747

(2) The interest is not transferable to a member of the 2748
immediate family of an owner of a registrant. 2749

(3) If the registrant is convicted of or pleads guilty or 2750
nolo contendere to a criminal violation of sections 1322.01 to 2751
1322.12 of the Revised Code or any criminal offense described in 2752

division (A)(1)(b) of section 1322.10 of the Revised Code, the 2753
superintendent of financial institutions may, in addition to any 2754
of the actions authorized under section 1322.10 of the Revised 2755
Code, order the registrant or members of the immediate family of 2756
an owner of a registrant to divest their interest in the company. 2757

Sec. 1322.10. (A) After notice and opportunity for a hearing 2758
conducted in accordance with Chapter 119. of the Revised Code, the 2759
superintendent of financial institutions may do the following: 2760

(1) Suspend, revoke, or refuse to issue or renew a 2761
certificate of registration or license if the superintendent finds 2762
any of the following: 2763

(a) A violation of or failure to comply with any provision of 2764
sections 1322.01 to 1322.12 of the Revised Code or the rules 2765
adopted under those sections, federal lending law, or any other 2766
law applicable to the business conducted under a certificate of 2767
registration or license; 2768

(b) A conviction of or guilty or nolo contendere plea to a 2769
felony in a domestic, foreign, or military court; 2770

(c) A conviction of or guilty or nolo contendere plea to any 2771
criminal offense involving theft, receiving stolen property, 2772
embezzlement, forgery, fraud, passing bad checks, money 2773
laundering, breach of trust, dishonesty, or drug trafficking, or 2774
any criminal offense involving money or securities, in a domestic, 2775
foreign, or military court; 2776

(d) The revocation of a mortgage broker certificate of 2777
registration or loan originator license, or any comparable 2778
authority, in any governmental jurisdiction. 2779

(2) Impose a fine of not more than one thousand dollars, for 2780
each day a violation of a law or rule is committed, repeated, or 2781
continued. If the registrant or licensee engages in a pattern of 2782

repeated violations of a law or rule, the superintendent may 2783
impose a fine of not more than two thousand dollars for each day 2784
the violation is committed, repeated, or continued. All fines 2785
collected pursuant to this division shall be paid to the treasurer 2786
of state to the credit of the consumer finance fund created in 2787
section 1321.21 of the Revised Code. In determining the amount of 2788
a fine to be imposed pursuant to this division, the superintendent 2789
may consider all of the following, to the extent known by the 2790
division of financial institutions: 2791

(a) The seriousness of the violation; 2792

(b) The registrant's or licensee's good faith efforts to 2793
prevent the violation; 2794

(c) The registrant's or licensee's history regarding 2795
violations and compliance with division orders; 2796

(d) The registrant's or licensee's financial resources; 2797

(e) Any other matters the superintendent considers 2798
appropriate in enforcing sections 1322.01 to 1322.12 of the 2799
Revised Code. 2800

(B) The superintendent may investigate alleged violations of 2801
sections 1322.01 to 1322.12 of the Revised Code or the rules 2802
adopted under those sections or complaints concerning any 2803
violation. 2804

(1) The superintendent may make application to the court of 2805
common pleas for an order enjoining any violation and, upon a 2806
showing by the superintendent that a person has committed or is 2807
about to commit that violation, the court shall grant an 2808
injunction, restraining order, or other appropriate relief. 2809

(2) The superintendent may make application to the court of 2810
common pleas for an order enjoining any person from acting as a 2811
mortgage broker, registrant, loan originator, or licensee in 2812

violation of division (A) or (B) of section 1322.02 of the Revised Code, and may seek and obtain civil penalties for unregistered or unlicensed conduct of not more than five thousand dollars per violation.

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

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

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

(F)(1) To protect the public interest, the superintendent 2845
may, without a prior hearing, do any of the following: 2846

(a) Suspend the mortgage broker certificate of registration 2847
or loan originator license of a registrant or licensee who is 2848
convicted of or pleads guilty or nolo contendere to a criminal 2849
violation of any provision of sections 1322.01 to 1322.12 of the 2850
Revised Code or any criminal offense described in division 2851
(A)(1)(b) or (c) of this section; 2852

(b) Suspend the mortgage broker certificate of registration 2853
of a registrant who violates division (F) of section 1322.05 of 2854
the Revised Code; 2855

(c) Suspend the mortgage broker certificate of registration 2856
or loan originator license of a registrant or licensee who fails 2857
to comply with a request made by the superintendent under section 2858
1322.03 or 1322.031 of the Revised Code to inspect qualifying 2859
education transcripts located at the registrant's or licensee's 2860
place of business. 2861

(2) The superintendent may, in accordance with Chapter 119. 2862
of the Revised Code, subsequently revoke any registration or 2863
license suspended under division (F)(1) of this section. 2864

(3) The superintendent shall, in accordance with Chapter 119. 2865
of the Revised Code, adopt rules establishing the maximum amount 2866
of time a suspension under division (F)(1) of this section may 2867
continue before a hearing is conducted. 2868

(G) The imposition of fines under this section does not 2869
preclude any penalty imposed under section 1322.99 of the Revised 2870
Code. 2871

Sec. 1322.99. (A) Whoever violates division (A)(1) or (2) of 2872
section 1322.02, division (E), (F), or (G) of section 1322.07, 2873
division (B)(1) or (2) of section 1322.071, or section 1322.08 of 2874

the Revised Code is guilty of a felony of the fifth degree. 2875

(B) Whoever violates division (B)(3) of section 1322.071 of 2876
the Revised Code is guilty of a felony of the fourth degree. 2877

(C) Whoever violates division (B) or (C)(1) or (2) of section 2878
1322.02 of the Revised Code is guilty of a misdemeanor of the 2879
first degree. 2880

Sec. 1343.011. (A) As used in this section: 2881

(1) "Discount points" means any charges, whether or not 2882
actually denominated as "discount points," that are paid by the 2883
seller or the buyer of residential real property to a residential 2884
mortgage lender or that are deducted and retained by a residential 2885
mortgage lender from the proceeds of the residential mortgage. 2886
"Discount points" does not include the costs associated with 2887
settlement services as defined in the "Real Estate Settlement 2888
Procedures Act of 1974," 88 Stat. 1724, 12 U.S.C. 2601, amendments 2889
thereto, reenactments thereof, enactments parallel thereto, or in 2890
substitution therefor, or regulations issued thereunder. 2891

(2) "Residential mortgage" means an obligation to pay a sum 2892
of money evidenced by a note and secured by a lien upon real 2893
property located within this state containing two or fewer 2894
residential units or on which two or fewer residential units are 2895
to be constructed and includes such an obligation on a residential 2896
condominium or cooperative unit. 2897

(3) "Residential mortgage lender" means any person, bank, or 2898
savings and loan association that lends money or extends or grants 2899
credit and obtains a residential mortgage to assure payment of the 2900
debt. The term also includes the holder at any time of a 2901
residential mortgage obligation. 2902

(B) Except residential mortgage loans described in division 2903
(B)(3) of section 1343.01 of the Revised Code, no residential 2904

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

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

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

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

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

(A) "Consumer transaction" means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things. "Consumer transaction" does not include transactions between persons, defined in sections 4905.03 and 5725.01 of the Revised Code, and their customers, except for transactions involving a loan made pursuant to sections 1321.35 to 1321.48 of the Revised Code and transactions in connection with residential mortgages between loan ~~originators~~ officers, mortgage brokers, or nonbank mortgage lenders and their customers; transactions between certified public accountants or public accountants and their clients; transactions between attorneys, physicians, or dentists and their clients or patients; and transactions between veterinarians and their patients that pertain to medical treatment but not ancillary services.

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

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

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

(E) "Knowledge" means actual awareness, but such actual

awareness may be inferred where objective manifestations indicate 2968
that the individual involved acted with such awareness. 2969

(F) "Natural gas service" means the sale of natural gas, 2970
exclusive of any distribution or ancillary service. 2971

(G) "Public telecommunications service" means the 2972
transmission by electromagnetic or other means, other than by a 2973
telephone company as defined in section 4927.01 of the Revised 2974
Code, of signs, signals, writings, images, sounds, messages, or 2975
data originating in this state regardless of actual call routing. 2976
"Public telecommunications service" excludes a system, including 2977
its construction, maintenance, or operation, for the provision of 2978
telecommunications service, or any portion of such service, by any 2979
entity for the sole and exclusive use of that entity, its parent, 2980
a subsidiary, or an affiliated entity, and not for resale, 2981
directly or indirectly; the provision of terminal equipment used 2982
to originate telecommunications service; broadcast transmission by 2983
radio, television, or satellite broadcast stations regulated by 2984
the federal government; or cable television service. 2985

(H)(1) ~~"Loan originator officer" has the same meaning~~ means 2986
an individual who for compensation or gain, or in anticipation of 2987
compensation or gain, takes or offers to take a residential 2988
mortgage loan application; assists or offers to assist a buyer in 2989
obtaining or applying to obtain a residential mortgage loan by, 2990
among other things, advising on loan terms, including rates, fees, 2991
and other costs; offers or negotiates terms of a residential 2992
mortgage loan; or issues or offers to issue a commitment for a 2993
residential mortgage loan. "Loan officer" also includes a loan 2994
originator as defined in division (E)(1) of section 1322.01 of the 2995
Revised Code, and includes a "mortgage loan originator" as defined 2996
in section 1321.51 of the Revised Code, except that it. 2997

(2) "Loan officer" does not include an employee of a bank, 2998
savings bank, savings and loan association, credit union, or 2999

credit union service organization organized under the laws of this 3000
state, another state, or the United States; an employee of a 3001
subsidiary of such a bank, savings bank, savings and loan 3002
association, or credit union; or an employee of an affiliate that 3003
(1)(a) controls, is controlled by, or is under common control 3004
with, such a bank, savings bank, savings and loan association, or 3005
credit union and (2)(b) is subject to examination, supervision, 3006
and regulation, including with respect to the affiliate's 3007
compliance with applicable consumer protection requirements, by 3008
the board of governors of the federal reserve system, the 3009
comptroller of the currency, the office of thrift supervision, the 3010
federal deposit insurance corporation, or the national credit 3011
union administration. 3012

(I) "Residential mortgage" or "mortgage" means an obligation 3013
to pay a sum of money evidenced by a note and secured by a lien 3014
upon real property located within this state containing two or 3015
fewer residential units or on which two or fewer residential units 3016
are to be constructed and includes such an obligation on a 3017
residential condominium or cooperative unit. 3018

(J)(1) ~~"Mortgage broker" has the same meaning as in section~~ 3019
~~1322.01 of the Revised Code, except that it~~ means any of the 3020
following: 3021

(a) A person that holds that person out as being able to 3022
assist a buyer in obtaining a mortgage and charges or receives 3023
from either the buyer or lender money or other valuable 3024
consideration readily convertible into money for providing this 3025
assistance; 3026

(b) A person that solicits financial and mortgage information 3027
from the public, provides that information to a mortgage broker or 3028
a person that makes residential mortgage loans, and charges or 3029
receives from either of them money or other valuable consideration 3030
readily convertible into money for providing the information; 3031

(c) A person engaged in table-funding or warehouse-lending mortgage loans that are residential mortgage loans. 3032
3033

(2) "Mortgage broker" does not include a bank, savings bank, 3034
savings and loan association, credit union, or credit union 3035
service organization organized under the laws of this state, 3036
another state, or the United States; a subsidiary of such a bank, 3037
savings bank, savings and loan association, or credit union; an 3038
affiliate that ~~(1)~~(a) controls, is controlled by, or is under 3039
common control with, such a bank, savings bank, savings and loan 3040
association, or credit union and ~~(2)~~(b) is subject to examination, 3041
supervision, and regulation, including with respect to the 3042
affiliate's compliance with applicable consumer protection 3043
requirements, by the board of governors of the federal reserve 3044
system, the comptroller of the currency, the office of thrift 3045
supervision, the federal deposit insurance corporation, or the 3046
national credit union administration; or an employee of any such 3047
entity. 3048

(K) "Nonbank mortgage lender" means any person that engages 3049
in a consumer transaction in connection with a residential 3050
mortgage, except for a bank, savings bank, savings and loan 3051
association, credit union, or credit union service organization 3052
organized under the laws of this state, another state, or the 3053
United States; a subsidiary of such a bank, savings bank, savings 3054
and loan association, or credit union; or an affiliate that (1) 3055
controls, is controlled by, or is under common control with, such 3056
a bank, savings bank, savings and loan association, or credit 3057
union and (2) is subject to examination, supervision, and 3058
regulation, including with respect to the affiliate's compliance 3059
with applicable consumer protection requirements, by the board of 3060
governors of the federal reserve system, the comptroller of the 3061
currency, the office of thrift supervision, the federal deposit 3062
insurance corporation, or the national credit union 3063

administration. 3064

(L) For purposes of divisions (H), (J), and (K) of this 3065
section: 3066

(1) "Control" of another entity means ownership, control, or 3067
power to vote twenty-five per cent or more of the outstanding 3068
shares of any class of voting securities of the other entity, 3069
directly or indirectly or acting through one or more other 3070
persons. 3071

(2) "Credit union service organization" means a CUSO as 3072
defined in 12 C.F.R. 702.2. 3073

Sec. 1345.05. (A) The attorney general shall: 3074

(1) Adopt, amend, and repeal procedural rules; 3075

(2) Adopt as a rule a description of the organization of the 3076
attorney general's office, stating the general courses and methods 3077
of operation of the section of the office of the attorney general, 3078
which is to administer Chapter 1345. of the Revised Code and 3079
methods whereby the public may obtain information or make 3080
submissions or requests, including a description of all forms and 3081
instructions used by that office; 3082

(3) Make available for public inspection all rules and all 3083
other written statements of policy or interpretations adopted or 3084
used by the attorney general in the discharge of the attorney 3085
general's functions, together with all judgments, including 3086
supporting opinions, by courts of this state that determine the 3087
rights of the parties and concerning which appellate remedies have 3088
been exhausted, or lost by the expiration of the time for appeal, 3089
determining that specific acts or practices violate section 3090
1345.02, 1345.03, or 1345.031 of the Revised Code; 3091

(4) Inform consumers and suppliers on a continuing basis of 3092
acts or practices that violate Chapter 1345. of the Revised Code 3093

by, among other things, publishing an informational document 3094
describing acts and practices in connection with residential 3095
mortgages that are unfair, deceptive, or unconscionable, and by 3096
making that information available on the attorney general's 3097
official web site; 3098

(5) Cooperate with state and local officials, officials of 3099
other states, and officials of the federal government in the 3100
administration of comparable statutes; 3101

(6) Report annually on or before the first day of January to 3102
the governor and the general assembly on the operations of the 3103
attorney general in respect to Chapter 1345. of the Revised Code, 3104
and on the acts or practices occurring in this state that violate 3105
such chapter. The report shall include a statement of 3106
investigatory and enforcement procedures and policies, of the 3107
number of investigations and enforcement proceedings instituted 3108
and of their disposition, and of other activities of the state and 3109
of other persons to promote the purposes of Chapter 1345. of the 3110
Revised Code. 3111

(7) In carrying out official duties, the attorney general 3112
shall not disclose publicly the identity of suppliers investigated 3113
or the facts developed in investigations unless these matters have 3114
become a matter of public record in enforcement proceedings, in 3115
public hearings conducted pursuant to division (B)(1) of this 3116
section, or the suppliers investigated have consented in writing 3117
to public disclosure. 3118

(B) The attorney general may: 3119

(1) Conduct research, make inquiries, hold public hearings, 3120
and publish studies relating to consumer transactions; 3121

(2) Adopt, amend, and repeal substantive rules defining with 3122
reasonable specificity acts or practices that violate sections 3123
1345.02, 1345.03, and 1345.031 of the Revised Code. In adopting, 3124

amending, or repealing substantive rules defining acts or 3125
practices that violate section 1345.02 of the Revised Code, due 3126
consideration and great weight shall be given to federal trade 3127
commission orders, trade regulation rules and guides, and the 3128
federal courts' interpretations of subsection 45(a)(1) of the 3129
"Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 3130
41, as amended. 3131

In adopting, amending, or repealing such rules concerning a 3132
consumer transaction in connection with a residential mortgage, 3133
the attorney general shall consult with the superintendent of 3134
financial institutions and shall give due consideration to state 3135
and federal statutes, regulations, administrative agency 3136
interpretations, and case law. 3137

(C) In the conduct of public hearings authorized by this 3138
section, the attorney general may administer oaths, subpoena 3139
witnesses, adduce evidence, and require the production of relevant 3140
material. Upon failure of a person without lawful excuse to obey a 3141
subpoena or to produce relevant matter, the attorney general may 3142
apply to a court of common pleas for an order compelling 3143
compliance. 3144

(D) The attorney general may request that an individual who 3145
refuses to testify or to produce relevant material on the ground 3146
that the testimony or matter may incriminate the individual be 3147
ordered by the court to provide the testimony or matter. With the 3148
exception of a prosecution for perjury and an action for damages 3149
under section 1345.07 or 1345.09 of the Revised Code, an 3150
individual who complies with a court order to provide testimony or 3151
matter, after asserting a privilege against self incrimination to 3152
which the individual is entitled by law, shall not be subjected to 3153
a criminal proceeding on the basis of the testimony or matter 3154
discovered through that testimony or matter. 3155

(E) Any person may petition the attorney general requesting 3156

the adoption, amendment, or repeal of a rule. The attorney general 3157
shall prescribe by rule the form for such petitions and the 3158
procedure for their submission, consideration, and disposition. 3159
Within sixty days of submission of a petition, the attorney 3160
general shall either deny the petition in writing, stating the 3161
reasons for the denial, or initiate rule-making proceedings. There 3162
is no right to appeal from such denial of a petition. 3163

(F) All rules shall be adopted subject to Chapter 119. of the 3164
Revised Code. 3165

(G) The informational document published in accordance with 3166
division (A)(4) of this section shall be made available for 3167
distribution to consumers who are applying for a mortgage loan. An 3168
acknowledgement of receipt shall be retained by the lender, 3169
mortgage broker, and loan ~~originator~~ officer, as applicable, 3170
subject to review by the attorney general and the department of 3171
commerce. 3172

Sec. 1345.09. For a violation of Chapter 1345. of the Revised 3173
Code, a consumer has a cause of action and is entitled to relief 3174
as follows: 3175

(A) Where the violation was an act prohibited by section 3176
1345.02, 1345.03, or 1345.031 of the Revised Code, the consumer 3177
may, in an individual action, rescind the transaction or recover 3178
the consumer's actual economic damages plus an amount not 3179
exceeding five thousand dollars in noneconomic damages. 3180

(B) Where the violation was an act or practice declared to be 3181
deceptive or unconscionable by rule adopted under division (B)(2) 3182
of section 1345.05 of the Revised Code before the consumer 3183
transaction on which the action is based, or an act or practice 3184
determined by a court of this state to violate section 1345.02, 3185
1345.03, or 1345.031 of the Revised Code and committed after the 3186
decision containing the determination has been made available for 3187

public inspection under division (A)(3) of section 1345.05 of the Revised Code, the consumer may rescind the transaction or recover, but not in a class action, three times the amount of the consumer's actual economic damages or two hundred dollars, whichever is greater, plus an amount not exceeding five thousand dollars in noneconomic damages or recover damages or other appropriate relief in a class action under Civil Rule 23, as amended.

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

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

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

(E) When a consumer commences an individual action for a declaratory judgment or an injunction or a class action under this section, the clerk of court shall immediately mail a copy of the complaint to the attorney general. Upon timely application, the attorney general may be permitted to intervene in any private action or appeal pending under this section. When a judgment under

this section becomes final, the clerk of court shall mail a copy 3220
of the judgment including supporting opinions to the attorney 3221
general for inclusion in the public file maintained under division 3222
(A)(3) of section 1345.05 of the Revised Code. 3223

(F) The court may award to the prevailing party a reasonable 3224
attorney's fee limited to the work reasonably performed, if either 3225
of the following apply: 3226

(1) The consumer complaining of the act or practice that 3227
violated this chapter has brought or maintained an action that is 3228
groundless, and the consumer filed or maintained the action in bad 3229
faith; 3230

(2) The supplier has knowingly committed an act or practice 3231
that violates this chapter. 3232

(G) As used in this section, "actual economic damages" means 3233
damages for direct, incidental, or consequential pecuniary losses 3234
resulting from a violation of Chapter 1345. of the Revised Code 3235
and does not include damages for noneconomic loss as defined in 3236
section 2315.18 of the Revised Code. 3237

(H) Nothing in this section shall preclude a consumer from 3238
also proceeding with a cause of action under any other theory of 3239
law. 3240

Sec. 1349.31. (A)(1) No creditor shall willfully and 3241
knowingly fail to comply with section 1349.26 or 1349.27 of the 3242
Revised Code. For purposes of division (A)(1) of this section, 3243
"willfully and knowingly" has the same meaning as in section 112 3244
of the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C.A. 3245
1611, as amended. 3246

(2) Whoever violates division (A)(1) of this section is 3247
guilty of a felony of the fifth degree. 3248

(B) The superintendent of financial institutions may directly 3249

bring an action to enjoin a violation of this section. The 3250
attorney general may directly bring an action against a mortgage 3251
broker, loan ~~originator~~ officer, or nonbank mortgage lender to 3252
enjoin a violation of this section with the same rights, 3253
privileges, and powers as those described in section 1345.06 of 3254
the Revised Code. The prosecuting attorney of the county in which 3255
the action may be brought may bring an action against a mortgage 3256
broker, loan ~~originator~~ officer, or nonbank mortgage lender to 3257
enjoin a violation of this section only if the prosecuting 3258
attorney first presents any evidence of the violation to the 3259
attorney general and, within a reasonable period of time, the 3260
attorney general has not agreed to bring the action. 3261

For purposes of this division, "loan ~~originator~~ officer," 3262
"mortgage broker," and "nonbank mortgage lender" have the same 3263
meanings as in section 1345.01 of the Revised Code. 3264

(C)(1) The superintendent of financial institutions may 3265
initiate criminal proceedings under this section by presenting any 3266
evidence of criminal violations to the prosecuting attorney of the 3267
county in which the offense may be prosecuted. If the prosecuting 3268
attorney does not prosecute the violations, or at the request of 3269
the prosecuting attorney, the superintendent shall present any 3270
evidence of criminal violations to the attorney general, who may 3271
proceed in the prosecution with all the rights, privileges, and 3272
powers conferred by law on prosecuting attorneys, including the 3273
power to appear before grand juries and to interrogate witnesses 3274
before such grand juries. These powers of the attorney general 3275
shall be in addition to any other applicable powers of the 3276
attorney general. 3277

(2) The prosecuting attorney of the county in which an 3278
alleged offense may be prosecuted may initiate criminal 3279
proceedings under this section. 3280

(3) In order to initiate criminal proceedings under this 3281

section, the attorney general shall first present any evidence of 3282
criminal violations to the prosecuting attorney of the county in 3283
which the alleged offense may be prosecuted. If, within a 3284
reasonable period of time, the prosecuting attorney has not agreed 3285
to prosecute the violations, the attorney general may proceed in 3286
the prosecution with all the rights, privileges, and powers 3287
described in division (C)(1) of this section. 3288

Sec. 1349.43. (A) As used in this section, "loan ~~originator~~ 3289
officer," "mortgage broker," and "nonbank mortgage lender" have 3290
the same meanings as in section 1345.01 of the Revised Code. 3291

(B) The department of commerce shall establish and maintain 3292
an electronic database accessible through the internet that 3293
contains information on all of the following: 3294

(1) The enforcement actions taken by the superintendent of 3295
financial institutions for each violation of or failure to comply 3296
with any provision of sections 1322.01 to 1322.12 of the Revised 3297
Code, upon final disposition of the action; 3298

(2) The enforcement actions taken by the attorney general 3299
under Chapter 1345. of the Revised Code against loan ~~originators~~ 3300
officers, mortgage brokers, and nonbank mortgage lenders, upon 3301
final disposition of each action; 3302

(3) All judgments by courts of this state, concerning which 3303
appellate remedies have been exhausted or lost by the expiration 3304
of the time for appeal, finding either of the following: 3305

(a) A violation of any provision of sections 1322.01 to 3306
1322.12 of the Revised Code; 3307

(b) That specific acts or practices by a loan ~~originator~~ 3308
officer, mortgage broker, or nonbank mortgage lender violate 3309
section 1345.02, 1345.03, or 1345.031 of the Revised Code. 3310

(C) The attorney general shall submit to the department, on 3311

the first day of each January, April, July, and October, a list of 3312
all enforcement actions and judgments described in divisions 3313
(B)(2) and (3)(b) of this section. 3314

(D) The department may adopt rules in accordance with Chapter 3315
119. of the Revised Code that are necessary to implement this 3316
section. 3317

(E) The electronic database maintained by the department in 3318
accordance with this section shall not include information that, 3319
pursuant to section 1322.061 of the Revised Code, is confidential. 3320

Sec. 1733.252. (A) As used in this section, "nationwide 3321
mortgage licensing system and registry" has the same meaning as in 3322
section 1322.01 of the Revised Code. 3323

(B) Subject to division (C) of this section, each credit 3324
union, the subsidiaries of the credit union, and the loan 3325
originators employed by the credit union, shall comply with the 3326
"Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 3327
122 Stat. 2810, 12 U.S.C. 5101, and register with the nationwide 3328
mortgage licensing system and registry. 3329

(C) ~~Compliance~~ Unless otherwise preempted by federal law, 3330
compliance by a credit union insured by a credit union share 3331
guaranty corporation established under Chapter 1761. of the 3332
Revised Code, the subsidiaries of the credit union, and the loan 3333
originators employed by the credit union shall be determined by 3334
rules adopted by the superintendent of financial institutions in 3335
accordance with Chapter 119. of the Revised Code. At a minimum, 3336
the rules shall require loan originators to furnish to the 3337
nationwide mortgage licensing system and registry information 3338
concerning the loan originator's identity and be consistent with 3339
the requirements for federally insured credit unions adopted by 3340
the national credit union administration pursuant to the "Secure 3341
and Fair Enforcement for Mortgage Licensing Act of 2008. 3342

Sec. 5302.01. The forms set forth in sections 5302.05, 3343
5302.07, 5302.09, 5302.11, 5302.12, 5302.14, and 5302.17, ~~and~~ 3344
~~5302.22~~ of the Revised Code may be used and shall be sufficient 3345
for their respective purposes. They shall be known as "Statutory 3346
Forms" and may be referred to as such. They may be altered as 3347
circumstances require, and the authorization of ~~such~~ those forms 3348
shall not prevent the use of other forms. Wherever the phrases 3349
defined in sections 5302.06, 5302.08, 5302.10, and 5302.13 of the 3350
Revised Code are to be incorporated in instruments by reference, 3351
the method of incorporation as indicated in the statutory forms 3352
shall be sufficient, but shall not preclude other methods. 3353

Sec. 5302.02. The rules and definitions contained in sections 3354
5302.03, 5302.04, 5302.06, 5302.08, 5302.10, 5302.13, 5302.17, 3355
5302.18, 5302.19, 5302.20, and 5302.21, ~~and 5302.22~~ of the Revised 3356
Code apply to all deeds or other instruments relating to real 3357
estate, whether the statutory forms or other forms are used, where 3358
the instruments are executed on or after October 1, 1965, ~~or, in~~ 3359
~~relation to the.~~ The rules and definitions contained in section 3360
5302.22 of the Revised Code, as it existed prior to the effective 3361
date of this amendment, apply to instruments executed on or after 3362
August 29, 2000, and prior to the effective date of this 3363
amendment. The rules and definitions contained in section 5302.22 3364
of the Revised Code apply to instruments executed on or after the 3365
effective date of this amendment. 3366

Sec. 5302.22. (A) ~~A deed conveying any interest in real~~ 3367
~~property, and in substance following the form set forth in this~~ 3368
~~division, when duly executed in accordance with Chapter 5301. of~~ 3369
~~the Revised Code and recorded in the office of the county~~ 3370
~~recorder, creates a present interest as sole owner or as a tenant~~ 3371
~~in common in the grantee and creates a transfer on death interest~~ 3372

~~in the beneficiary or beneficiaries. Upon the death of the~~ 3373
~~grantee, the deed vests the interest of the decedent in the~~ 3374
~~beneficiary or beneficiaries. The deed described in this division~~ 3375
~~shall in substance conform to the following form:~~ 3376

~~"Transfer on Death Deed~~ 3377

~~..... (marital status), of County,~~ 3378
~~..... (for valuable consideration paid, if any),~~ 3379
~~grant(s) (with covenants, if any), to whose~~ 3380
~~tax mailing address is, transfer on death to~~ 3381
~~....., beneficiary(s), the following real property:~~ 3382

~~(Description of land or interest in land and encumbrances,~~ 3383
~~reservations, and exceptions, if any.)~~ 3384

~~Prior Instrument Reference:~~ 3385

~~....., wife (husband) of the grantor, releases all~~ 3386
~~rights of dower therein.~~ 3387

~~Executed this day of~~ 3388

~~.....~~ 3389

~~(Signature of Grantor)~~ 3390

~~(Execution in accordance with Chapter 5301. of the Revised~~ 3391
~~Code)" As used in sections 5302.22, 5302.222, 5302.23, and 5302.24~~ 3392
~~of the Revised Code:~~ 3393

~~(1) "Affidavit of confirmation" means an affidavit executed~~ 3394
~~under division (A) of section 5302.222 of the Revised Code.~~ 3395

~~(2) "Survivorship tenancy" means an ownership of real~~ 3396
~~property or any interest in real property by two or more persons~~ 3397
~~that is created by executing a deed pursuant to section 5302.17 of~~ 3398
~~the Revised Code.~~ 3399

~~(3) "Survivorship tenant" means one of the owners of real~~ 3400
~~property or any interest in real property in a survivorship~~ 3401
~~tenancy.~~ 3402

(4) "Tenants by the entirety" mean only those persons who 3403
are vested as tenants in an estate by the entirety with 3404
survivorship pursuant to any deed recorded between February 9, 3405
1972, and April 3, 1985, under section 5302.17 of the Revised Code 3406
as it existed during that period of time. Nothing in sections 3407
5302.22, 5302.222, 5302.23, and 5302.24 of the Revised Code 3408
authorizes the creation of a tenancy by the entirety or 3409
recognizes a tenancy by the entirety created outside that period 3410
of time. 3411

(5) "Transfer on death designation affidavit" means an 3412
affidavit executed under this section. 3413

(6) "Transfer on death beneficiary or beneficiaries" means 3414
the beneficiary or beneficiaries designated in a transfer on death 3415
designation affidavit. 3416

(B) Any ~~person~~ individual who, under the Revised Code or the 3417
common law of this state, owns real property or any interest in 3418
real property as a sole owner ~~or~~, as a tenant in common, or as a 3419
survivorship tenant, or together with the individual's spouse owns 3420
an indivisible interest in real property as tenants by the 3421
entireties, may ~~create an~~ designate the entire interest, or any 3422
specified part that is less than the entire interest, in the that 3423
real property as transferable on death to a designated beneficiary 3424
or beneficiaries by executing and recording a deed, together with 3425
the individual's spouse, if any, a transfer on death designation 3426
affidavit as provided in this section ~~conveying the person's~~ 3427
~~entire, separate interest in the real property to one or more~~ 3428
~~individuals, including the grantor, and designating one or more~~ 3429
~~other persons, identified in the deed by name, as transfer on~~ 3430
~~death beneficiaries.~~ 3431

~~A deed conveying an interest in real property that includes a~~ 3432
~~transfer on death beneficiary designation need not be supported by~~ 3433
~~consideration and need not be delivered to the transfer on death~~ 3434

beneficiary to be effective. If the affidavit is executed by an 3435
individual together with the individual's spouse, if any, the 3436
dower rights of the spouse are subordinate to the vesting of title 3437
to the interest in the real property in the transfer on death 3438
beneficiary or beneficiaries designated under this section. The 3439
affidavit shall be recorded in the office of the county recorder 3440
in the county in which the real property is located, and, when so 3441
recorded, the affidavit or a certified copy of the affidavit shall 3442
be evidence of the transfer on death beneficiary or beneficiaries 3443
so designated in the affidavit insofar as the affidavit affects 3444
title to the real property. 3445

(C) Upon (1) If an individual who owns real property or an 3446
interest in real property as a sole owner or as a tenant in common 3447
executes a transfer on death designation affidavit, upon the death 3448
of that individual, title to the real property or interest in the 3449
real property specified in the affidavit vests in the transfer on 3450
death beneficiary or beneficiaries designated in the affidavit. 3451

(2) If an individual who owns real property or an interest in 3452
real property as a survivorship tenant executes a transfer on 3453
death designation affidavit, upon the death of that individual or 3454
of one but not all of the surviving survivorship tenants, title to 3455
the real property or interest in the real property specified in 3456
the affidavit vests in the surviving survivorship tenant or 3457
tenants. Upon the death of the last surviving survivorship tenant, 3458
title to the real property or interest in the real property vests 3459
in the transfer on death beneficiary or beneficiaries designated 3460
in the affidavit, subject to division (B)(7) of section 5302.23 of 3461
the Revised Code. 3462

(3) If an individual who together with the individual's 3463
spouse owns an indivisible interest in real property as tenants by 3464
the entirety executes a transfer on death designation affidavit, 3465
upon the death of that individual, title to the real property or 3466

interest in the real property vests in the remaining tenant by the 3467
entireties. Upon the death of the remaining tenant by the 3468
entireties, title to the real property or interest in the real 3469
property vests in the transfer on death beneficiary or 3470
beneficiaries designated in the affidavit, subject to division 3471
(B)(7) of section 5302.23 of the Revised Code. 3472

(D) A transfer on death designation affidavit shall be 3473
verified before any person authorized to administer oaths and 3474
shall include all of the following: 3475

(1) A description of the real property the title to which is 3476
affected by the affidavit and a reference to an instrument of 3477
record containing that description; 3478

(2) If less than the entire interest in the real property is 3479
to be transferred on death under the affidavit, a statement of the 3480
specific interest or part of the interest in the real property 3481
that is to be so transferred; 3482

(3) A statement by the individual executing the affidavit 3483
that the individual is the person appearing on the record of the 3484
real property as the owner of the real property or interest in the 3485
real property at the time of the recording of the affidavit and 3486
the marital status of that owner. If the owner is married, the 3487
affidavit shall include a statement by the owner's spouse stating 3488
that the spouse's dower rights are subordinate to the vesting of 3489
title to the real property or interest in the real property in the 3490
transfer on death beneficiary or beneficiaries designated in the 3491
affidavit. 3492

(4) A statement designating one or more persons, identified 3493
by name, as transfer on death beneficiary or beneficiaries. 3494

(E) The county recorder of the county in which a transfer on 3495
death designation affidavit is offered for recording shall receive 3496
the affidavit and cause it to be recorded in the same manner as 3497

deeds are recorded. The county recorder shall collect a fee for 3498
recording the affidavit in the same amount as the fee for 3499
recording deeds. The county recorder shall index the affidavit in 3500
the name of the owner of record of the real property or interest 3501
in the real property who executed the affidavit. 3502

(F) A transfer on death designation affidavit need not be 3503
supported by consideration and need not be delivered to the 3504
transfer on death beneficiary or beneficiaries designated in the 3505
affidavit to be effective. However, in order to be effective, that 3506
affidavit shall be recorded with the county recorder as described 3507
in this section prior to the death of the individual who executed 3508
the affidavit. 3509

(G) Subject to division (C) of this section, upon the death 3510
of any individual who owns real property or an interest in real 3511
property that is subject to a transfer on death beneficiary 3512
designation made under a transfer on death deed designation 3513
affidavit as provided in this section, the deceased owner's that 3514
real property or interest in real property of the deceased owner 3515
shall be transferred only to the transfer on death beneficiary or 3516
beneficiaries who are identified in the deed affidavit by name and 3517
who survive the deceased owner or that are in existence on the 3518
date of death of the deceased owner. The transfer of the deceased 3519
owner's interest shall be recorded by presenting to the county 3520
auditor and filing with the county recorder an affidavit, 3521
accompanied by a certified copy of a death certificate for the 3522
deceased owner. The affidavit shall recite the name and address of 3523
each designated transfer on death beneficiary who survived the 3524
deceased owner or that is in existence on the date of the deceased 3525
owner's death, the date of the deceased owner's death, a 3526
description of the subject real property or interest in real 3527
property, and the names of each designated transfer on death 3528
beneficiary who has not survived the deceased owner or that is not 3529

~~in existence on the date of the deceased owner's death. The
affidavit shall be accompanied by a certified copy of a death
certificate for each designated transfer on death beneficiary who
has not survived the deceased owner. The county recorder shall
make an index reference to any affidavit so filed in the record of
deeds.~~

~~Upon the death of any individual holding real property or an
interest in real property that is subject to a transfer on death
beneficiary designation made under a transfer on death deed as
provided in this section, 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
shall be pursuant to section 5309.081 of the Revised Code For
purposes of this division, if a natural or legal person designated
by name in the affidavit as a transfer on death beneficiary or as
a contingent transfer on death beneficiary as provided in division
(B)(2) of section 5302.23 of the Revised Code solely in that
person's capacity as a trustee of a trust has died, has resigned,
or otherwise has been replaced by a successor trustee of the trust
on the date of death of the deceased owner, the successor trustee
of the trust shall be considered the transfer on death beneficiary
or contingent transfer on death beneficiary in existence on the
date of death of the deceased owner in full compliance with this
division, notwithstanding that the successor trustee is not named
as a transfer on death beneficiary or contingent transfer on death
beneficiary in the affidavit.~~

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

Sec. 5302.221. (A) As used in this section: 3559

"Estate" has the same meaning as in section 5111.11 of the 3560

Revised Code. 3561

"Medicaid estate recovery program" means the program 3562
instituted under section 5111.11 of the Revised Code. 3563

(B) The administrator of the medicaid estate recovery program 3564
shall prescribe a form on which a beneficiary of a transfer on 3565
death ~~deed~~ designation affidavit as provided in section 5302.22 of 3566
the Revised Code, who survives the deceased owner of the real 3567
property or an interest in the real property or that is in 3568
existence on the date of death of the deceased owner, or ~~such a~~ 3569
that beneficiary's representative is to indicate both of the 3570
following: 3571

(1) Whether the deceased owner was either of the following: 3572

(a) A decedent subject to the medicaid estate recovery 3573
program; 3574

(b) The spouse of a decedent subject to the medicaid estate 3575
recovery program. 3576

(2) Whether the real property or interest in the real 3577
property was part of the estate of a decedent subject to the 3578
medicaid estate recovery program. 3579

(C) A county recorder shall obtain a properly completed form 3580
prescribed under division (B) of this section from the beneficiary 3581
of a transfer on death ~~deed~~ designation affidavit or the 3582
beneficiary's representative and send a copy of the form to the 3583
administrator of the medicaid estate recovery program before 3584
recording the transfer of the real property or interest in the 3585
real property under ~~division (C) of section 5302.22~~ 5302.222 of 3586
the Revised Code. 3587

Sec. 5302.222. (A) The transfer of a deceased owner's real 3588
property or interest in real property as designated in a transfer 3589
on death designation affidavit provided in section 5302.22 of the 3590

Revised Code shall be recorded by presenting to the county auditor 3591
of the county in which the real property is located and filing 3592
with the county recorder of that county an affidavit of 3593
confirmation executed by any transfer on death beneficiary to whom 3594
the transfer is made. The affidavit of confirmation shall be 3595
verified before a person authorized to administer oaths and shall 3596
be accompanied by a certified copy of the death certificate for 3597
the deceased owner. The affidavit of confirmation shall contain 3598
all of the following information: 3599

(1) The name and address of each transfer on death 3600
beneficiary who survived the deceased owner or that is in 3601
existence on the date of death of the deceased owner. If a named 3602
beneficiary was designated as a transfer on death beneficiary 3603
solely in that person's capacity as a trustee of a trust and that 3604
trustee subsequently has been replaced by a successor trustee, the 3605
affidavit of confirmation shall include the name and address of 3606
the successor trustee and shall be accompanied by a copy of the 3607
recorded successor trustee affidavit described in section 5302.171 3608
of the Revised Code. 3609

(2) The date of death of the deceased owner; 3610

(3) A description of the subject real property or interest in 3611
real property; 3612

(4) The name of each transfer on death beneficiary who has 3613
not survived the deceased owner or that is not in existence on the 3614
date of death of the deceased owner. 3615

(B) The affidavit of confirmation shall be accompanied by a 3616
certified copy of the death certificate for each transfer on death 3617
beneficiary who has not survived the deceased owner. 3618

(C) The county recorder shall make an index reference in the 3619
record of deeds to any affidavit of confirmation filed with the 3620
county recorder under this section. 3621

(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.

(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.

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

(B) Real property or an interest in real property that is the subject ~~to~~ of a transfer on death ~~beneficiary~~ designation affidavit as provided in section 5302.22 of the Revised Code or as described in division (A) of this section has all of the following characteristics and ramifications:

(1) An interest of a deceased owner shall be transferred to the transfer on death beneficiaries who are identified in the ~~deed~~ affidavit by name and who survive the deceased owner or that are in existence on the date of the deceased owner's death. If there is a designation of more than one transfer on death beneficiary, the beneficiaries shall take title ~~in~~ to the interest in equal shares as tenants in common, unless the deceased owner has specifically designated other than equal shares or has designated that the beneficiaries take title as survivorship tenants, subject to division (B)(3) of this section. If a transfer on death beneficiary does not survive the deceased owner or is not in existence on the date of the deceased owner's death, and the

deceased owner has designated one or more persons as contingent 3653
transfer on death beneficiaries as provided in division (B)(2) of 3654
this section, the designated contingent transfer on death 3655
beneficiaries shall take the same interest that would have passed 3656
to the transfer on death beneficiary had that transfer on death 3657
beneficiary survived the deceased owner or been in existence on 3658
the date of the deceased owner's death. If none of the designated 3659
transfer on death beneficiaries survives the deceased owner or is 3660
in existence on the date of the deceased owner's death and no 3661
contingent transfer on death beneficiaries have been designated 3662
~~or~~, have survived the deceased owner, or are in existence on the 3663
date of death of the deceased owner, the interest of the deceased 3664
owner shall be distributed as part of the probate estate of the 3665
deceased owner of the interest. If there are two or more transfer 3666
on death beneficiaries and the deceased owner has designated that 3667
title to the interest in the real property be taken by those 3668
beneficiaries as survivorship tenants, no designated contingent 3669
transfer on death beneficiaries shall take title to the interest 3670
unless none of the transfer on death beneficiaries survives the 3671
deceased owner on the date of death of the deceased owner. 3672

(2) A transfer on death ~~deed~~ designation affidavit may 3673
contain a designation of one or more persons as contingent 3674
transfer on death beneficiaries, who shall take the interest of 3675
the deceased owner that would otherwise have passed to the 3676
~~designated~~ transfer on death beneficiary if that named ~~designated~~ 3677
transfer on death beneficiary does not survive the deceased owner 3678
or is not in existence on the date of death of the deceased owner. 3679
Persons designated as contingent transfer on death beneficiaries 3680
shall be identified in the ~~deed~~ affidavit by name. 3681

(3) Any transfer on death beneficiary or contingent transfer 3682
on death beneficiary may be a natural or legal person, including, 3683
but not limited to, a bank as trustee of a trust, except that if 3684

two or more transfer on death beneficiaries are designated as survivorship tenants, all of those beneficiaries shall be natural persons and if two or more contingent transfer on death beneficiaries are designated as survivorship tenants, all of those contingent beneficiaries shall be natural persons. A natural person who is designated a transfer on death beneficiary or contingent transfer on death beneficiary solely in that natural person's capacity as a trustee of a trust is not considered a natural person for purposes of designating the transfer on death beneficiaries or contingent transfer on death beneficiaries as survivorship tenants under division (B)(3) of this section.

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

~~(4)~~(5) The designation in a ~~deed~~ transfer on death designation affidavit of any transfer on death beneficiary may be revoked or changed at any time, without the consent of that ~~designated~~ transfer on death beneficiary, by the owner of the interest, by the surviving survivorship tenants of the interest, or by the remaining tenant by the entireties of the interest, by executing ~~in accordance with Chapter 5301. of the Revised Code and recording, prior to the death of the owner of the interest, of the surviving survivorship tenants of the interest, or of the remaining tenant by the entireties of the interest, as the case may be, a deed conveying the grantor's entire, separate interest in the real property to one or more persons, including the grantor, with or without the designation of another transfer on death beneficiary~~ new transfer on death designation affidavit pursuant to section 5302.22 of the Revised Code stating the revocation or change in that designation. The new transfer on death designation affidavit shall automatically supersede and

revoke all prior recorded transfer on death designation affidavits 3717
with respect to the real property or the interest in real property 3718
identified in the new affidavit, provided that the prior recorded 3719
affidavit was executed before the later recorded affidavit. 3720

~~(5)~~(6) A fee simple title or any fractional interest in a fee 3721
simple title may be subjected to a transfer on death beneficiary 3722
designation. 3723

~~(6)~~(7)(a) A ~~designated~~ transfer on death beneficiary takes 3724
only the interest that the deceased owner or owners of the 3725
interest held on the date of death, subject to all encumbrances, 3726
reservations, and exceptions. 3727

~~(7)~~(b) If the owners hold title to the interest in a 3728
survivorship tenancy, the death of all except the last 3729
survivorship tenant automatically terminates and nullifies any 3730
transfer on death beneficiary designations made solely by the 3731
deceased survivorship tenant or tenants without joinder by the 3732
last surviving survivorship tenant. The termination or 3733
nullification of any transfer on death beneficiary designations 3734
under division (B)(7)(b) of this section is effective as of the 3735
date of death of a deceased survivorship tenant. No affirmative 3736
act of revocation is required of the last surviving survivorship 3737
tenant for the termination or nullification of the transfer on 3738
death beneficiary designations to occur as described in division 3739
(B)(7)(b) of this section. If the last surviving survivorship 3740
tenant dies with no transfer on death beneficiary designation, the 3741
entire interest of that last surviving survivorship tenant shall 3742
be distributed as part of the tenant's probate estate. 3743

(c) If the owners hold title to the interest in a tenancy by 3744
the entires, the death of the first tenant by the entires 3745
automatically terminates and nullifies any transfer on death 3746
beneficiary designations made solely by that deceased first tenant 3747
without joinder by the remaining tenant by the entires. The 3748

termination or nullification of any transfer on death beneficiary 3749
designations under division (B)(7)(c) of this section is effective 3750
as of the date of death of the first tenant by the entireties. No 3751
affirmative act of revocation is required of the remaining tenant 3752
by the entireties for the termination or nullification of the 3753
transfer on death beneficiary designations to occur as described 3754
in division (B)(7)(c) of this section. If the remaining tenant by 3755
the entireties dies with no transfer on death beneficiary 3756
designation, the entire interest of that remaining tenant shall be 3757
distributed as part of the tenant's probate estate. 3758

(8) No rights of any lienholder, including, but not limited 3759
to, any mortgagee, judgment creditor, or mechanic's lien holder, 3760
shall be affected by the designation of a transfer on death 3761
beneficiary pursuant to this section and section 5302.22 of the 3762
Revised Code. If any lienholder takes action to enforce the lien, 3763
by foreclosure or otherwise through a court proceeding, it is not 3764
necessary to join ~~the~~ any transfer on death beneficiary as a party 3765
defendant in the action unless the transfer on death beneficiary 3766
has another interest in the real property ~~that is currently~~ 3767
vested. 3768

~~(8)~~(9) Any transfer on death of real property or of an 3769
interest in real property that results from a ~~deed~~ transfer on 3770
death designation affidavit designating a transfer on death 3771
beneficiary is not testamentary. That transfer on death shall 3772
supersede any attempted testate or intestate transfer of that real 3773
property or interest in real property. 3774

(10) The execution and recording of a transfer on death 3775
designation affidavit shall be effective to terminate the 3776
designation of a transfer on death beneficiary in a transfer on 3777
death deed involving the same real property or interest in real 3778
property and recorded prior to the effective date of this section. 3779

(11) The execution and recording of a transfer on death 3780

designation affidavit shall be effective to bar the vesting of any 3781
rights of dower in a subsequent spouse of the owner of the real 3782
property who executed that affidavit unless the affidavit is 3783
revoked or changed. 3784

Sec. 5302.24. Sections 5302.22, 5302.222, and 5302.23 of the 3785
Revised Code do not affect any deed that was executed and recorded 3786
prior to the effective date of this section, or any transfer on 3787
death beneficiary designation made, pursuant to section 5302.22 of 3788
the Revised Code as it existed prior to the effective date of this 3789
section. If that deed or designation is valid on the day prior to 3790
the effective date of this section, the deed or designation 3791
continues to be valid on and after the effective date of this 3792
section. A grantee of that deed need not execute a transfer on 3793
death designation affidavit that designates the same transfer on 3794
death beneficiary or beneficiaries as in the deed unless the 3795
grantee chooses to do so. 3796

Sec. 5703.021. (A) There is hereby established a small claims 3797
division of the board of tax appeals. 3798

(B) The small claims division shall have jurisdiction over 3799
any proceeding that is commenced under any of the following: 3800

(1) Section 5717.01 of the Revised Code in which the property 3801
at issue qualifies for the partial tax exemption described in 3802
section 319.302 of the Revised Code; 3803

(2) Section 5717.011 or 5717.02 of the Revised Code if the 3804
amount in controversy claimed by the taxpayer does not exceed ten 3805
thousand dollars exclusive of interest and penalty. The board by 3806
rule may modify the jurisdictional dollar threshold for cases 3807
qualifying for the small claims division under division (B)(2) of 3808
this section. 3809

(C)(1) Notwithstanding division (B) of this section, the 3810

board shall reassign to the regular docket an appeal that is 3811
initially assigned to the small claims division if either of the 3812
following applies: 3813

(a) A party requests the reassignment. 3814

(b) The appeal presents an issue of public or great general 3815
interest or presents a constitutional issue. 3816

(2) The board shall reassign to the regular docket an appeal 3817
that is initially assigned to the small claims division if it 3818
determines that the appeal does not meet the requirements of 3819
division (B) of this section. 3820

(3) The board may provide by rule for a reasonable time 3821
within which a party may request the reassignment of an appeal 3822
under division (C)(1)(a) of this section. 3823

(D) The board may reassign to the small claims docket an 3824
appeal that is originally assigned to the regular docket if the 3825
small claims division has jurisdiction over the appeal under 3826
division (B) of this section. The reassignment shall be made with 3827
the consent of all of the parties. 3828

(E) The board of tax appeals shall adopt rules to implement 3829
procedures to provide informal review of the taxpayers' appeals in 3830
the small claims division. The procedures may include telephonic 3831
hearings. 3832

(F) A decision and order of the small claims division shall 3833
be conclusive upon all of the parties and shall not be appealed. 3834
Notwithstanding division (C) of section 5703.02 of the Revised 3835
Code that requires a record of the proceedings, the decision and 3836
order of the small claims division shall not be considered as 3837
precedent in any other case, hearing, or proceeding. 3838

(G) The appearance of an attorney licensed to practice law in 3839
this state on behalf of any party in the small claims division is 3840

permitted but not required. A person other than a natural person 3841
that is a real party in interest as a taxpayer or claimant, or an 3842
entity or organization that may participate in the appeal pursuant 3843
to law, may commence an appeal in the small claims division or 3844
appear in the appeal proceedings through an attorney licensed to 3845
practice law in this state. That entity or organization, through 3846
any bona fide officer, partner, member, trustee, or salaried 3847
employee, may file and present its claim or defense in any appeal 3848
in the small claims division, provided that the entity or 3849
organization, in the absence of representation by an attorney 3850
licensed to practice law in this state, does not engage in 3851
cross-examination, argument, or other acts of advocacy. The board 3852
by rule may provide additional guidelines applicable to the 3853
practice before the board. 3854

Sec. 5703.81. There is hereby created in the state treasury 3855
the tax appeals administration fund. All money to the credit of 3856
the fund shall be used to defray the costs incurred by the board 3857
of tax appeals in the performance of its duties. 3858

Each fiscal year between the first and fifteenth days of 3859
July, the tax commissioner shall compute the following amounts for 3860
the property in each taxing district in each county, and certify 3861
to the director of budget and management the sum of those amounts 3862
for all taxing districts in all counties: for fiscal year 2010 and 3863
thereafter, one-tenth of one per cent of the total amount by which 3864
taxes charged against real property on the general tax list of 3865
real and public utility property were reduced under section 3866
319.302 of the Revised Code for the preceding tax year. 3867

After receiving the tax commissioner's certification, the 3868
director of budget and management shall transfer from the general 3869
revenue fund to the tax appeals administration fund one-fourth of 3870
the amount certified on or before each of the following days: the 3871

first days of August, November, February, and May. 3872

On or before the thirtieth day of June of the fiscal year, 3873
the tax commissioner shall certify to the director of budget and 3874
management the sum of the amounts by which the amounts computed 3875
for a taxing district under this section exceeded the 3876
distributions to the taxing district under division (F) of section 3877
321.24 of the Revised Code, and the director shall transfer that 3878
sum from the tax appeals administration fund to the general 3879
revenue fund. 3880

Sec. 5717.01. (A) An appeal from a decision of a county board 3881
of revision may be taken to the board of tax appeals within thirty 3882
days after notice of the decision of the county board of revision 3883
is mailed as provided in division (A) of section 5715.20 of the 3884
Revised Code. Such an appeal may be taken by the county auditor, 3885
the tax commissioner, or any board, legislative authority, public 3886
official, or taxpayer authorized by section 5715.19 of the Revised 3887
Code to file complaints against valuations or assessments with the 3888
auditor. ~~Such~~ That appeal shall be taken by the filing of a notice 3889
of appeal, in person or by certified mail, express mail, or 3890
authorized delivery service, with the board of tax appeals and 3891
with the county board of revision. If notice of appeal is filed by 3892
certified mail, express mail, or authorized delivery service as 3893
provided in section 5703.056 of the Revised Code, the date of the 3894
United States postmark placed on the sender's receipt by the 3895
postal service or the date of receipt recorded by the authorized 3896
delivery service shall be treated as the date of filing. Upon 3897
receipt of ~~such~~ the notice of appeal ~~such~~ the, county board of 3898
revision shall by certified mail notify all persons thereof who 3899
were parties to the proceeding before ~~such~~ that county board of 3900
revision, and shall file proof of ~~such~~ that notice with the board 3901
of tax appeals. The county board of revision shall thereupon 3902
certify to the board of tax appeals a transcript of the record of 3903

the proceedings of the county board of revision pertaining to the 3904
original complaint, and all evidence offered in connection 3905
therewith. ~~Such~~ The appeal may be heard by the board of tax 3906
appeals at its offices in Columbus or in the county where the 3907
property is listed for taxation, or the board of tax appeals may 3908
cause its examiners to conduct ~~such~~ the hearing and to report to 3909
it their findings for affirmation or rejection. 3910

(B) The board of tax appeals may order the appeal to be heard 3911
on the record and the evidence certified to it by the county board 3912
of revision, or it may order the hearing of additional evidence, 3913
and it may make ~~such~~ an investigation concerning the appeal ~~as~~ 3914
that it deems proper. 3915

(C) An appeal that qualifies under section 5703.021 of the 3916
Revised Code may proceed in the small claims division of the board 3917
of tax appeals pursuant to that section. 3918

Sec. 5717.011. (A) As used in this chapter, "tax 3919
administrator" has the same meaning as in section 718.01 of the 3920
Revised Code. 3921

(B) Appeals from a municipal board of appeal created under 3922
section 718.11 of the Revised Code may be taken by the taxpayer or 3923
the tax administrator to the board of tax appeals or may be taken 3924
by the taxpayer or the tax administrator to a court of common 3925
pleas as otherwise provided by law. If the taxpayer or the tax 3926
administrator elects to make an appeal to the board of tax appeals 3927
or court of common pleas, the appeal shall be taken by the filing 3928
of a notice of appeal with the board of tax appeals or court of 3929
common pleas, the municipal board of appeal, and the opposing 3930
party. The notice of appeal shall be filed within sixty days after 3931
the day the appellant receives notice of the decision issued under 3932
section 718.11 of the Revised Code. The notice of appeal may be 3933
filed in person or by certified mail, express mail, or authorized 3934

delivery service as provided in section 5703.056 of the Revised Code. If the notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. The notice of appeal shall have attached ~~thereto~~ to it and incorporated ~~therein~~ in it by reference a true copy of the decision issued under section 718.11 of the Revised Code and shall specify the errors ~~therein~~ in the decision complained of, but failure to attach a copy of such notice and to incorporate it by reference in the notice of appeal does not invalidate the appeal.

(C) Upon the filing of a notice of appeal with the board of tax appeals, the municipal board of appeal shall certify to the board of tax appeals a transcript of the record of the proceedings before it, together with all evidence considered by it in connection ~~therewith~~ with the proceedings. ~~Such~~ The appeals may be heard by the board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct ~~such~~ the hearings and to report to it their findings for affirmation or rejection. The board may order the appeal to be heard upon the record and the evidence certified to it by the administrator, but upon the application of any interested party the board shall order the hearing of additional evidence, and the board may make ~~such~~ an investigation concerning the appeal ~~as~~ that it considers proper.

(D) If an issue being appealed under this section is addressed in a municipal corporation's ordinance or regulation, the tax administrator, upon the request of the board of tax appeals, shall provide a copy of the ordinance or regulation to the board of tax appeals.

(E) An appeal that qualifies under section 5703.021 of the 3967
Revised Code may proceed in the small claims division of the board 3968
of tax appeals pursuant to that section. 3969

Sec. 5717.02. (A) Except as otherwise provided by law, 3970
appeals from final determinations by the tax commissioner of any 3971
preliminary, amended, or final tax assessments, reassessments, 3972
valuations, determinations, findings, computations, or orders made 3973
by the commissioner may be taken to the board of tax appeals by 3974
the taxpayer, by the person to whom notice of the tax assessment, 3975
reassessment, valuation, determination, finding, computation, or 3976
order by the commissioner is required by law to be given, by the 3977
director of budget and management if the revenues affected by ~~such~~ 3978
that decision would accrue primarily to the state treasury, or by 3979
the county auditors of the counties to the undivided general tax 3980
funds of which the revenues affected by ~~such~~ that decision would 3981
primarily accrue. Appeals from the redetermination by the director 3982
of development under division (B) of section 5709.64 or division 3983
(A) of section 5709.66 of the Revised Code may be taken to the 3984
board of tax appeals by the enterprise to which notice of the 3985
redetermination is required by law to be given. Appeals from a 3986
decision of the tax commissioner concerning an application for a 3987
property tax exemption may be taken to the board of tax appeals by 3988
a school district that filed a statement concerning ~~such~~ that 3989
application under division (C) of section 5715.27 of the Revised 3990
Code. Appeals from a redetermination by the director of job and 3991
family services under section 5733.42 of the Revised Code may be 3992
taken by the person to which the notice of the redetermination is 3993
required by law to be given under that section. 3994

~~Such~~ (B) The appeals under division (A) of this section shall 3995
be taken by the filing of a notice of appeal with the board, and 3996
with the tax commissioner if the tax commissioner's action is the 3997
subject of the appeal, with the director of development if that 3998

director's action is the subject of the appeal, or with the 3999
director of job and family services if that director's action is 4000
the subject of the appeal. The notice of appeal shall be filed 4001
within sixty days after service of the notice of the tax 4002
assessment, reassessment, valuation, determination, finding, 4003
computation, or order by the commissioner or redetermination by 4004
the director has been given as provided in section 5703.37, 4005
5709.64, 5709.66, or 5733.42 of the Revised Code. The notice of 4006
~~such~~ appeal may be filed in person or by certified mail, express 4007
mail, or authorized delivery service. If the notice of ~~such~~ appeal 4008
is filed by certified mail, express mail, or authorized delivery 4009
service as provided in section 5703.056 of the Revised Code, the 4010
date of the United States postmark placed on the sender's receipt 4011
by the postal service or the date of receipt recorded by the 4012
authorized delivery service shall be treated as the date of 4013
filing. The notice of appeal shall have attached ~~thereto~~ to it and 4014
incorporated ~~therein~~ in it by reference a true copy of the notice 4015
sent by the commissioner or director to the taxpayer, enterprise, 4016
or other person of the final determination or redetermination 4017
complained of, and shall also specify the errors therein 4018
complained of, but failure to attach a copy of ~~such~~ that notice 4019
and to incorporate it by reference in the notice of appeal does 4020
not invalidate the appeal. 4021

(C) Upon the filing of a notice of appeal, the tax 4022
commissioner or the director, as appropriate, shall certify to the 4023
board a transcript of the record of the proceedings before the 4024
commissioner or director, together with all evidence considered by 4025
the commissioner or director in connection ~~therewith~~ with the 4026
proceedings. ~~Such~~ Those appeals or applications may be heard by 4027
the board at its office in Columbus or in the county where the 4028
appellant resides, or it may cause its examiners to conduct ~~such~~ 4029
the hearings and to report to it their findings for affirmation or 4030
rejection. The board shall institute procedures, including the 4031

conduct of discovery, to control and manage appeals governed by 4032
this section. Those procedures shall include a requirement that 4033
upon the filing of the transcript of the record in an appeal, the 4034
board through its attorney examiners shall establish a case 4035
management schedule in consultation with the parties or their 4036
counsel. 4037

(D) The board may order the appeal to be heard upon the 4038
record and the evidence certified to it by the commissioner or 4039
director, but upon the application of any interested party the 4040
board shall order the hearing of additional evidence, and it may 4041
make ~~such~~ an investigation concerning the appeal ~~as~~ that it 4042
considers proper. 4043

(E) An appeal that qualifies under section 5703.021 of the 4044
Revised Code may proceed in the small claims division of the board 4045
of tax appeals pursuant to that section. 4046

Sec. 5717.04. (A)(1) The proceeding to obtain a reversal, 4047
vacation, or modification of a decision of the board of tax 4048
appeals shall be by appeal to the supreme court or the court of 4049
appeals for the county in which the property taxed is ~~situate~~ 4050
situated or in which the taxpayer resides. If the taxpayer is a 4051
corporation, then the proceeding to obtain ~~such~~ that reversal, 4052
vacation, or modification shall be by appeal to the supreme court 4053
or to the court of appeals for the county in which the property 4054
taxed is ~~situate~~ situated, or the county of residence of the agent 4055
for service of process, tax notices, or demands, or the county in 4056
which the corporation has its principal place of business. In all 4057
other instances, the proceeding to obtain ~~such~~ the reversal, 4058
vacation, or modification shall be by appeal to the court of 4059
appeals for Franklin county. 4060

(2) Appeals from decisions of the board determining appeals 4061
from decisions of county boards of revision may be instituted by 4062

any of the persons who were parties to the appeal before the board 4063
of tax appeals, by the person in whose name the property involved 4064
in the appeal is listed or sought to be listed, if ~~such~~ that 4065
person was not a party to the appeal before the board of tax 4066
appeals, or by the county auditor of the county in which the 4067
property involved in the appeal is located. 4068

(3) Appeals from decisions of the board of tax appeals 4069
determining appeals from final determinations by the tax 4070
commissioner of any preliminary, amended, or final tax 4071
assessments, reassessments, valuations, determinations, findings, 4072
computations, or orders made by the commissioner may be instituted 4073
by any of the persons who were parties to the appeal or 4074
application before the board, by the person in whose name the 4075
property is listed or sought to be listed, if the decision 4076
appealed from determines the valuation or liability of property 4077
for taxation and if ~~any such~~ that person was not a party to the 4078
appeal or application before the board, by the taxpayer or any 4079
other person to whom the decision of the board appealed from was 4080
by law required to be sent, by the director of budget and 4081
management if the revenue affected by the decision of the board 4082
appealed from would accrue primarily to the state treasury, by the 4083
county auditor of the county to the undivided general tax funds of 4084
which the revenues affected by the decision of the board appealed 4085
from would primarily accrue, or by the tax commissioner. 4086

(4) Appeals from decisions of the board upon all other 4087
appeals or applications filed with and determined by the board may 4088
be instituted by any of the persons who were parties to ~~such~~ that 4089
appeal or application before the board, by any persons to whom the 4090
decision of the board appealed from was by law required to be 4091
sent, or by any other person to whom the board sent the decision 4092
appealed from, as authorized by section 5717.03 of the Revised 4093
Code. 4094

Such (5) Notwithstanding divisions (A)(1) to (4) of this 4095
section, a decision or order of the small claims division of the 4096
board of tax appeals shall be conclusive upon all of the parties 4097
and shall not be appealed. 4098

(B)(1) The appeals under division (A) of this section shall 4099
be taken within thirty days after the date of the entry of the 4100
decision of the board on the journal of its proceedings, as 4101
provided by ~~such~~ section 5717.03 of the Revised Code, by the 4102
filing by the appellant of a notice of appeal with the court to 4103
which the appeal is taken and the board. If a timely notice of 4104
appeal is filed by a party, any other party may file a notice of 4105
appeal within ten days of the date on which the first notice of 4106
appeal was filed or within the time otherwise prescribed in this 4107
section, whichever is later. A notice of appeal shall set forth 4108
the decision of the board appealed from and the errors ~~therein in~~ 4109
the decision complained of. Proof of the filing of ~~such that~~ 4110
notice with the board shall be filed with the court to which the 4111
appeal is being taken. The court in which notice of appeal is 4112
first filed shall have exclusive jurisdiction of the appeal. 4113

(2) In all such appeals the tax commissioner or all persons 4114
to whom the decision of the board appealed from is required by 4115
~~such~~ section 5717.03 of the Revised Code to be sent, other than 4116
the appellant, shall be made appellees. Unless waived, notice of 4117
the appeal shall be served upon all appellees by certified mail. 4118
The prosecuting attorney shall represent the county auditor in any 4119
such appeal in which the auditor is a party. 4120

(3) The board, upon written demand filed by an appellant, 4121
shall within thirty days after the filing of ~~such that~~ demand file 4122
with the court to which the appeal is being taken a certified 4123
transcript of the record of the proceedings of the board 4124
pertaining to the decision complained of and the evidence 4125
considered by the board in making ~~such that~~ decision. 4126

(C)(1) If upon hearing and consideration of ~~such~~ the record 4127
and evidence the court decides that the decision of the board 4128
appealed from is reasonable and lawful it shall affirm the same, 4129
but if the court decides that ~~such~~ the decision of the board is 4130
unreasonable or unlawful, the court shall reverse and vacate the 4131
decision or modify it and enter final judgment in accordance with 4132
~~such~~ the modification. 4133

(2) The clerk of the court shall certify the judgment of the 4134
court to the board, ~~which~~. The board shall certify ~~such~~ that 4135
judgment to ~~such~~ those public officials or take ~~such~~ any other 4136
action in connection therewith ~~as~~ that is required to give effect 4137
to the decision. The "taxpayer" includes any person required to 4138
return any property for taxation. 4139

(3) Any party to the appeal shall have the right to appeal 4140
from the judgment of the court of appeals on questions of law, as 4141
in other cases. 4142

Sec. 5815.36. (A) As used in this section: 4143

(1) "Disclaimant" means any person, any guardian or personal 4144
representative of a person or estate of a person, or any 4145
attorney-in-fact or agent of a person having a general or specific 4146
authority to act granted in a written instrument, who is any of 4147
the following: 4148

(a) With respect to testamentary instruments and intestate 4149
succession, an heir, next of kin, devisee, legatee, donee, person 4150
succeeding to a disclaimed interest, surviving joint tenant, 4151
surviving tenant by the entirety, surviving tenant of a tenancy 4152
with a right of survivorship, beneficiary under a testamentary 4153
instrument, or person designated to take pursuant to a power of 4154
appointment exercised by a testamentary instrument; 4155

(b) With respect to nontestamentary instruments, a grantee, 4156

donee, person succeeding to a disclaimed interest, surviving joint 4157
tenant, surviving tenant by the entirety, surviving tenant of a 4158
tenancy with a right of survivorship, beneficiary under a 4159
nontestamentary instrument, or person designated to take pursuant 4160
to a power of appointment exercised by a nontestamentary 4161
instrument; 4162

(c) With respect to fiduciary rights, privileges, powers, and 4163
immunities, a fiduciary under a testamentary or nontestamentary 4164
instrument. Division (A)(1)(c) of this section does not authorize 4165
a fiduciary who disclaims fiduciary rights, privileges, powers, 4166
and immunities to cause the rights of any beneficiary to be 4167
disclaimed unless the instrument creating the fiduciary 4168
relationship authorizes the fiduciary to make such a disclaimer. 4169

(d) Any person entitled to take an interest in property upon 4170
the death of a person or upon the occurrence of any other event. 4171

(2) "Personal representative" includes any fiduciary as 4172
defined in section 2109.01 of the Revised Code and any executor, 4173
trustee, guardian, or other person or entity having a fiduciary 4174
relationship with regard to any interest in property passing to 4175
the fiduciary, executor, trustee, guardian, or other person or 4176
entity by reason of a disclaimant's death. 4177

(3) "Property" means all forms of property, real and 4178
personal, tangible and intangible. 4179

(B)(1) A disclaimant, other than a fiduciary under an 4180
instrument who is not authorized by the instrument to disclaim the 4181
interest of a beneficiary, may disclaim, in whole or in part, the 4182
succession to any property by executing and by delivering, filing, 4183
or recording a written disclaimer instrument in the manner 4184
provided in this section. 4185

(2) A disclaimant who is a fiduciary under an instrument may 4186
disclaim, in whole or in part, any right, power, privilege, or 4187

immunity, by executing and by delivering, filing, or recording a written disclaimer instrument in the manner provided in this section.

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

(a) A reference to the donative instrument;

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

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

(4) The guardian of the estate of a minor or an incompetent, or the personal representative of a deceased person, whether or not authorized by the instrument to disclaim, with the consent of the probate division of the court of common pleas may disclaim, in whole or in part, the succession to any property, or interest in property, that the ward, if an adult and competent, or the deceased, if living, might have disclaimed. The guardian or personal representative, or any interested person may file an application with the probate division of the court of common pleas that has jurisdiction of the estate, asking that the court order the guardian or personal representative to execute and deliver, file, or record the disclaimer on behalf of the ward, estate, or deceased person. The court shall order the guardian or personal representative to execute and deliver, file, or record the disclaimer if the court finds, upon hearing after notice to interested parties and such other persons as the court shall direct, that:

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

(b) It would not materially, adversely affect the minor or 4219
incompetent, or the beneficiaries of the estate of the decedent, 4220
taking into consideration other available resources and the age, 4221
probable life expectancy, physical and mental condition, and 4222
present and reasonably anticipated future needs of the minor or 4223
incompetent or the beneficiaries of the estate of the decedent. 4224

A written instrument of disclaimer ordered by the court under 4225
this division shall be executed and be delivered, filed, or 4226
recorded within the time and in the manner in which the person 4227
could have disclaimed if the person were living, an adult, and 4228
competent. 4229

(C) A partial disclaimer of property that is subject to a 4230
burdensome interest created by the donative instrument is not 4231
effective unless the disclaimed property constitutes a gift that 4232
is separate and distinct from undisclaimed gifts. 4233

(D) The disclaimant shall deliver, file, or record the 4234
disclaimer, or cause the same to be done, prior to accepting any 4235
benefits of the disclaimed interest and at any time after the 4236
latest of the following dates: 4237

(1) The effective date of the donative instrument if both the 4238
taker and the taker's interest in the property are finally 4239
ascertained on that date; 4240

(2) The date of the occurrence of the event upon which both 4241
the taker and the taker's interest in the property become finally 4242
ascertainable; 4243

(3) The date on which the disclaimant attains eighteen years 4244
of age or is no longer an incompetent, without tendering or 4245
repaying any benefit received while the disclaimant was under 4246
eighteen years of age or an incompetent, and even if a guardian of 4247
a minor or incompetent had filed an application pursuant to 4248
division (B)(4) of this section and the probate division of the 4249

court of common pleas involved did not consent to the guardian 4250
executing a disclaimer. 4251

(E) No disclaimer instrument is effective under this section 4252
if either of the following applies under the terms of the 4253
disclaimer instrument: 4254

(1) The disclaimant has power to revoke the disclaimer. 4255

(2) The disclaimant may transfer, or direct to be 4256
transferred, to self the entire legal and equitable ownership of 4257
the property subject to the disclaimer instrument. 4258

(F)(1) Subject to division (F)(2) of this section, if the 4259
interest disclaimed is created by a nontestamentary instrument, 4260
including, but not limited to, a transfer on death designation 4261
affidavit pursuant to section 5302.22 of the Revised Code, the 4262
disclaimer instrument shall be delivered personally or by 4263
certified mail to the trustee or other person who has legal title 4264
to, or possession of, the property disclaimed. If the interest 4265
disclaimed is created by a transfer on death designation affidavit 4266
pursuant to section 5302.22 of the Revised Code, the disclaimer 4267
instrument shall be filed with the county recorder of the county 4268
in which the real property that is the subject of that affidavit 4269
is located. 4270

(2) If the interest disclaimed is created by a testamentary 4271
instrument, by intestate succession, ~~by a transfer on death deed~~ 4272
~~pursuant to section 5302.22 of the Revised Code,~~ or by a 4273
certificate of title to a motor vehicle, watercraft, or outboard 4274
motor that evidences ownership of the motor vehicle, watercraft, 4275
or outboard motor that is transferable on death pursuant to 4276
section 2131.13 of the Revised Code, the disclaimer instrument 4277
shall be filed in the probate division of the court of common 4278
pleas in the county in which proceedings for the administration of 4279
the decedent's estate have been commenced, and an executed copy of 4280

the disclaimer instrument shall be delivered personally or by 4281
certified mail to the personal representative of the decedent's 4282
estate. 4283

(3) If no proceedings for the administration of the 4284
decedent's estate have been commenced, the disclaimer instrument 4285
shall be filed in the probate division of the court of common 4286
pleas in the county in which proceedings for the administration of 4287
the decedent's estate might be commenced according to law. The 4288
disclaimer instrument shall be filed and indexed, and fees 4289
charged, in the same manner as provided by law for an application 4290
to be appointed as personal representative to administer the 4291
decedent's estate. The disclaimer is effective whether or not 4292
proceedings thereafter are commenced to administer the decedent's 4293
estate. If proceedings thereafter are commenced for the 4294
administration of the decedent's estate, they shall be filed 4295
under, or consolidated with, the case number assigned to the 4296
disclaimer instrument. 4297

(4) If an interest in real estate is disclaimed, an executed 4298
copy of the disclaimer instrument also shall be recorded in the 4299
office of the recorder of the county in which the real estate is 4300
located. The disclaimer instrument shall include a description of 4301
the real estate with sufficient certainty to identify it, and 4302
shall contain a reference to the record of the instrument that 4303
created the interest disclaimed. If title to the real estate is 4304
registered under Chapters 5309. and 5310. of the Revised Code, the 4305
disclaimer interest shall be entered as a memorial on the last 4306
certificate of title. A spouse of a disclaimant has no dower or 4307
other interest in the real estate disclaimed. 4308

(G) If a donative instrument expressly provides for the 4309
distribution of property, part of property, or interest in 4310
property if there is a disclaimer, the property, part of property, 4311
or interest disclaimed shall be distributed or disposed of, and 4312

accelerated or not accelerated, in accordance with the donative 4313
instrument. In the absence of express provisions to the contrary 4314
in the donative instrument, the property, part of property, or 4315
interest in property disclaimed, and any future interest that is 4316
to take effect in possession or enjoyment at or after the 4317
termination of the interest disclaimed, shall descend, be 4318
distributed, or otherwise be disposed of, and shall be 4319
accelerated, in the following manner: 4320

(1) If intestate or testate succession is disclaimed, as if 4321
the disclaimant had predeceased the decedent; 4322

(2) If the disclaimant is one designated to take pursuant to 4323
a power of appointment exercised by a testamentary instrument, as 4324
if the disclaimant had predeceased the donee of the power; 4325

(3) If the donative instrument is a nontestamentary 4326
instrument, as if the disclaimant had died before the effective 4327
date of the nontestamentary instrument; 4328

(4) If the disclaimer is of a fiduciary right, power, 4329
privilege, or immunity, as if the right, power, privilege, or 4330
immunity was never in the donative instrument. 4331

(H) A disclaimer pursuant to this section is effective as of, 4332
and relates back for all purposes to, the date upon which the 4333
taker and the taker's interest have been finally ascertained. 4334

(I) A disclaimant who has a present and future interest in 4335
property, and disclaims the disclaimant's present interest in 4336
whole or in part, is considered to have disclaimed the 4337
disclaimant's future interest to the same extent, unless a 4338
contrary intention appears in the disclaimer instrument or the 4339
donative instrument. A disclaimant is not precluded from 4340
receiving, as an alternative taker, a beneficial interest in the 4341
property disclaimed, unless a contrary intention appears in the 4342
disclaimer instrument or in the donative instrument. 4343

(J) The disclaimant's right to disclaim under this section is 4344
barred if the disclaimant does any of the following: 4345

(1) Assigns, conveys, encumbers, pledges, or transfers, or 4346
contracts to assign, convey, encumber, pledge, or transfer, the 4347
property or any interest in it; 4348

(2) Waives in writing the disclaimant's right to disclaim and 4349
executes and delivers, files, or records the waiver in the manner 4350
provided in this section for a disclaimer instrument; 4351

(3) Accepts the property or an interest in it; 4352

(4) Permits or suffers a sale or other disposition of the 4353
property pursuant to judicial action against the disclaimant. 4354

(K) Neither a fiduciary's application for appointment or 4355
assumption of duties as a fiduciary nor a beneficiary's 4356
application for appointment as a personal representative or 4357
fiduciary waives or bars the disclaimant's right to disclaim a 4358
right, power, privilege, or immunity as a personal representative 4359
or fiduciary or the beneficiary's right to disclaim property. 4360

(L) The right to disclaim under this section exists 4361
irrespective of any limitation on the interest of the disclaimant 4362
in the nature of a spendthrift provision or similar restriction. 4363

(M) A disclaimer instrument or written waiver of the right to 4364
disclaim that has been executed and delivered, filed, or recorded 4365
as required by this section is final and binding upon all persons. 4366

(N) The right to disclaim and the procedures for disclaimer 4367
established by this section are in addition to, and do not exclude 4368
or abridge, any other rights or procedures that exist or formerly 4369
existed under any other section of the Revised Code or at common 4370
law to assign, convey, release, refuse to accept, renounce, waive, 4371
or disclaim property. 4372

(O)(1) No person is liable for distributing or disposing of 4373

property in a manner inconsistent with the terms of a valid 4374
disclaimer if the distribution or disposition is otherwise proper 4375
and the person has no actual knowledge of the disclaimer. 4376

(2) No person is liable for distributing or disposing of 4377
property in reliance upon the terms of a disclaimer that is 4378
invalid because the right of disclaimer has been waived or barred 4379
if the distribution or disposition is otherwise proper and the 4380
person has no actual knowledge of the facts that constitute a 4381
waiver or bar to the right to disclaim. 4382

(P)(1) A disclaimant may disclaim pursuant to this section 4383
any interest in property that is in existence on September 27, 4384
1976, if either the interest in the property or the taker of the 4385
interest in the property is not finally ascertained on that date. 4386

(2) No disclaimer executed pursuant to this section destroys 4387
or diminishes an interest in property that exists on September 27, 4388
1976, in any person other than the disclaimant. 4389

(Q) This section may be applied separately to different 4390
interests or powers created in the disclaimant by the same 4391
testamentary or nontestamentary instrument. 4392

Section 2. That existing sections 317.114, 321.24, 1321.51, 4393
1321.522, 1321.53, 1321.531, 1321.532, 1321.533, 1321.535, 4394
1321.54, 1321.55, 1321.59, 1322.01, 1322.02, 1322.022, 1322.023, 4395
1322.03, 1322.031, 1322.04, 1322.041, 1322.062, 1322.07, 1322.074, 4396
1322.10, 1322.99, 1343.011, 1345.01, 1345.05, 1345.09, 1349.31, 4397
1349.43, 1733.252, 5302.01, 5302.02, 5302.22, 5302.221, 5302.23, 4398
5717.01, 5717.011, 5717.02, 5717.04, and 5815.36 of the Revised 4399
Code are hereby repealed. 4400

Section 3. That Section 745.60 of Am. Sub. H.B. 1 of the 4401
128th General Assembly be amended to read as follows: 4402

Sec. 745.60. (A) Sections 1321.20, 1321.51, 1321.52, 4403
1321.521, 1321.522, 1321.53, 1321.531, 1321.532, 1321.533, 4404
1321.534, 1321.535, 1321.536, 1321.54, 1321.55, 1321.551, 4405
1321.552, 1321.57, 1321.59, 1321.591, 1321.592, 1321.593, 4406
1321.594, 1321.60, 1321.99, 1322.01, 1322.02, 1322.022, 1322.023, 4407
1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 1322.041, 1322.05, 4408
1322.051, 1322.052, 1322.06, 1322.061, 1322.062, 1322.063, 4409
1322.064, 1322.065, 1322.07, 1322.071, 1322.072, 1322.074, 4410
1322.075, 1322.08, 1322.081, 1322.09, 1322.10, 1322.11, 1322.99, 4411
1343.011, 1345.01, 1345.05, 1345.09, 1349.31, and 1349.43 4412
~~1733.252, and 1733.26~~ of the Revised Code, as amended or enacted 4413
by ~~this act~~ Am. Sub. H.B. 1 of the 128th General Assembly, shall 4414
apply on and after January 1, 2010, unless otherwise provided in 4415
this section. 4416

(B)(1) The Division of Financial Institutions shall begin 4417
accepting applications for a mortgage loan originator license, and 4418
applications for an exemption from registration under sections 4419
1321.51 to 1321.60 or 1322.01 to 1322.12 of the Revised Code, on 4420
~~the effective date of this section~~ October 16, 2009. 4421

(2) In order to continue to operate as an exempt entity, any 4422
credit union service organization in operation as of January 1, 4423
2010, that seeks exemption from registration under sections 4424
1321.51 to 1321.60 of the Revised Code shall obtain a valid letter 4425
of exemption issued by the Superintendent of Financial 4426
Institutions not later than July 1, 2010. Any person performing 4427
the duties of a mortgage loan originator as of January 1, 2010, 4428
shall obtain a mortgage loan originator license from the Division 4429
not later than January 1, 2011, in order to continue to perform 4430
those duties. 4431

(3) In order to continue to operate as an exempt entity, any 4432
mortgage banker or credit union service organization in operation 4433

as of January 1, 2010, that seeks exemption from registration 4434
under sections 1322.01 to 1322.12 of the Revised Code shall obtain 4435
a valid letter of exemption issued by the Superintendent not later 4436
than May 1, 2010. Any individual who, as of January 1, 2010, 4437
performs the duties of a loan originator and is employed by or 4438
associated with any person or entity listed in division (G)(2) of 4439
section 1322.01 of the Revised Code shall obtain a loan originator 4440
license from the Superintendent not later than May 1, 2010, in 4441
order to continue to perform those duties. 4442

(C) Individuals holding a valid mortgage lender certificate 4443
of registration, mortgage broker certificate of registration, or 4444
loan officer license as of January 1, 2010, shall not be required 4445
to be in compliance with the sections described in division (A) of 4446
this section until the first renewal of that certificate or 4447
license after that date. 4448

(D) Sections 1733.252 and 1733.26 of the Revised Code, as 4449
amended or enacted by Am. Sub. H.B. 1 of the 128th General 4450
Assembly, shall apply on and after January 1, 2011. 4451

Section 4. That existing Section 745.60 of Am. Sub. H.B. 1 of 4452
the 128th General Assembly is hereby repealed. 4453

Section 5. (A) Sections 1321.51, 1321.522, 1321.53, 1321.531, 4454
1321.532, 1321.533, 1321.535, 1321.54, 1321.55, 1321.59, 1322.01, 4455
1322.02, 1322.022, 1322.023, 1322.03, 1322.031, 1322.04, 1322.041, 4456
1322.062, 1322.07, 1322.074, 1322.10, 1322.99, 1343.011, 1345.01, 4457
1345.05, 1345.09, 1349.31, and 1349.43 of the Revised Code, as 4458
amended by this act, shall apply on and after January 1, 2010. 4459

(B) Section 1733.252 of the Revised Code, as amended by this 4460
act, shall apply on and after January 1, 2011. 4461

Section 6. A prosecuting attorney or treasurer of a county 4462

with a population greater than eight hundred thousand but less 4463
than nine hundred thousand may determine that the amount of money 4464
appropriated to the respective office from the county Delinquent 4465
Tax and Assessment Collection Fund under division (A) of section 4466
321.261 of the Revised Code exceeds the amount required to be used 4467
by that office as prescribed by division (A)(1) of that section. 4468
If a prosecuting attorney or treasurer of a county with that 4469
population makes such a determination, the prosecuting attorney or 4470
treasurer may expend up to fifty per cent of the excess so 4471
determined to pay the expenses of operating the respective office 4472
that otherwise would be payable from appropriations from the 4473
county general fund, notwithstanding section 321.261 of the 4474
Revised Code. 4475

This section expires December 31, 2011. 4476

Section 7. For fiscal year 2010, the Tax Commissioner shall 4477
compute the amounts in section 5703.81 of the Revised Code, as 4478
enacted by this act, between the first and fifteenth days of 4479
January, and shall certify to the Director of Budget and 4480
Management the sum of those amounts for all taxing districts in 4481
all counties. After receiving the Tax Commissioner's 4482
certification, the Director of Budget and Management shall 4483
transfer from the General Revenue Fund to the Tax Appeals 4484
Administration Fund one-fourth of the amount certified on or 4485
before each of the following days: the first days of February and 4486
May. 4487

Section 8. (A) This act is hereby declared to be an emergency 4488
measure necessary for the immediate preservation of the public 4489
peace, health, and safety. The reasons for such necessity are the 4490
following: 4491

(1) The earmarks for the Board of Tax Appeals of a portion of 4492

the state reimbursement to local taxing units for the 10% real 4493
property tax rollback need to be implemented for the current 4494
fiscal year 2010. 4495

(2) This act makes changes to the sections amended or enacted 4496
by Am. Sub. H.B. 1 of the 128th General Assembly in the 4497
implementation of the federal Secure and Fair Enforcement for 4498
Mortgage Licensing Act of 2008 ("S.A.F.E. Act"), and those 4499
sections apply on and after January 1, 2010. 4500

(B) Therefore, this act shall go into immediate effect. 4501

Section 9. If the emergency clause in Section 8 does not 4502
become part of this act, Section 7 of this act does not apply and 4503
Section 10 of this act applies. If the emergency clause in Section 4504
8 becomes a part of this act, Section 10 of this act does not 4505
apply. 4506

Section 10. For fiscal year 2010, the Tax Commissioner shall 4507
compute the amounts in section 5703.81 of the Revised Code, as 4508
enacted by this act, between the first and fifteenth days of April 4509
and shall certify to the Director of Budget and Management the sum 4510
of those amounts for all taxing districts in all counties. After 4511
receiving the Tax Commissioner's certification, the director of 4512
Budget and Management shall transfer from the General Revenue Fund 4513
to the Tax Appeals Administration Fund one-half of the amount 4514
certified on or before the first day of May. 4515

Section 11. The General Assembly, in enacting section 4516
5703.021 and amending sections 5717.01, 5717.011, 5717.02, and 4517
5717.04 of the Revised Code, declares the following: 4518

(A) In light of the significant increase in the number of 4519
appeals that have been filed with the Board of Tax Appeals and in 4520
an effort to facilitate the resolution of pending appeals, it is 4521

the intent of the General Assembly that the Board of Tax Appeals 4522
continue to work with the Tax Commissioner, tax practitioners, and 4523
other interested parties to consider as soon as practicable the 4524
modification or adoption of rules and recommendations for 4525
legislation with respect to the conduct of appeals, including all 4526
of the following: 4527

(1) Pleading standards applicable to notices of appeal; 4528

(2) Appropriately defined circumstances under which an appeal 4529
may be remanded for further proceedings; 4530

(3) Implementation of small claims procedures; 4531

(4) Facilitation of settlement including the use of 4532
alternative dispute resolution; 4533

(5) Adoption of case management procedures, including 4534
appropriate changes in discovery rules; 4535

(6) Implementation of procedures for summary judgment; 4536

(7) Streamlining of the hearing process. 4537

(B) It is also the intent of the General Assembly that the 4538
funding mechanism for the Board of Tax Appeals be reexamined as 4539
part of the budget process for fiscal years 2012 and 2013. This 4540
reexamination will consider the feasibility and desirability of 4541
replacing some or all of the funding mechanism in section 5703.81 4542
of the Revised Code, as enacted by this act, with additional funds 4543
from other sources, such as filing fees. 4544

(C) The enactment of section 5703.021 and the amendment of 4545
sections 5717.01, 5717.011, 5717.02, and 5717.04 of the Revised 4546
Code by this act shall be considered to be purely remedial in 4547
operation and shall be applied in a remedial manner to cases 4548
pending at the time of the effective date of this act to the 4549
extent practicable. 4550

Section 12. Section 321.24 of the Revised Code is presented 4551
in this act as a composite of the section as amended by both Sub. 4552
S.B. 353 of the 127th General Assembly and Am. Sub. H.B. 1 of the 4553
128th General Assembly. The General Assembly, applying the 4554
principle stated in division (B) of section 1.52 of the Revised 4555
Code that amendments are to be harmonized if reasonably capable of 4556
simultaneous operation, finds that the composite is the resulting 4557
version of the section in effect prior to the effective date of 4558
the section as presented in this act. 4559