



Am. Sub. H.B. 1

As Passed by the Senate

CC-4770

COM052

_____ moved to amend as follows:

In line 320, after "955.201," insert "1321.20, 1321.51,	1
1321.52, 1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 1321.59,	2
1321.60, 1321.99, 1322.01, 1322.02,"	3

In line 321, after "1322.041," insert "1322.05, 1322.051,	4
1322.052, 1322.06, 1322.061, 1322.062, 1322.063, 1322.064,	5
1322.07, 1322.071, 1322.072, 1322.074, 1322.075, 1322.08,	6
1322.081, 1322.09, 1322.10, 1322.11, 1322.99,"; after "1332.25,"	7
insert "1343.011, 1345.01, 1345.05, 1345.09,"; after "1349.22,"	8
insert "1349.31, 1349.43,"	9

In line 332, after "1721.211," insert "1733.26,"	10
--	----

In line 435, after "927.54," insert "1321.521, 1321.522,	11
1321.531, 1321.532, 1321.533, 1321.534, 1321.535, 1321.536,	12
1321.552, 1321.591, 1321.592, 1321.593, 1321.594, 1322.022,	13
1322.023, 1322.024, 1322.025, 1322.065,"; after "1545.073," insert	14
"1733.252,"	15

In line 2478, after the comma insert " <u>1321.53, 1321.531,</u> "	16
--	----

In line 2570, after "1315.141," insert " <u>1321.53, 1321.531,</u> "	17
--	----

In line 2586, after " <u>1321.37,</u> " insert " <u>1321.53, 1321.531,</u> "	18
--	----

In line 2614, after "1315.141," insert " <u>1321.53, 1321.531,</u> "	19
--	----

In line 2631, after "1315.141," insert "1321.53, 1321.531." 20

In line 2655, after "1315.141," insert "1321.53, 1321.531." 21

Delete lines 21820 through 22319 and insert: 22

"Sec. 1321.20. (A) Every person licensed or registered under 23
 this chapter shall pay to the superintendent of financial 24
 institutions, prior to the last day of June, an annual license or 25
 certificate of registration fee. On or about the fifteenth day of 26
 April of each year, the superintendent shall determine the license 27
 or certificate fees to be charged, pursuant to sections 1321.03, 28
 1321.05, ~~1321.53,~~ and 1321.73 of the Revised Code. Such 29
 determination shall be made by dividing the appropriation for the 30
 consumer finance section of the division of financial institutions 31
 for the current fiscal year by the number of licenses and 32
 certificates issued as of the date of the computation. In no event 33
 shall the amount of the fee exceed three hundred dollars, except 34
 that the maximum fee which may be charged insurance premium 35
 finance companies licensed under section 1321.73 of the Revised 36
 Code shall not exceed three hundred seventy-five dollars. Prior to 37
 the first day of June of each year, the superintendent shall 38
 inform each person licensed or registered under this chapter of 39
 the amount of the license or certificate fee for the succeeding 40
 fiscal year as determined by this section. 41

(B) (1) Each person licensed under Chapter 4727. of the 42
 Revised Code who is subject to annual license renewal under 43
 division (E) (1) of section 4727.03 of the Revised Code shall, 44
 prior to the last day of June, pay to the superintendent a fee 45
 equal to twice the amount of the fee determined by the 46
 superintendent pursuant to division (A) of this section. However, 47
 in no event shall the amount of the fee exceed three hundred 48
 dollars. 49

(2) Each person licensed under Chapter 4727. of the Revised Code who is subject to biennial license renewal under division (E) (2) of section 4727.03 of the Revised Code shall, prior to the date the license expires, pay to the superintendent a fee equal to four times the amount of the fee determined by the superintendent pursuant to division (A) of this section. However, in no event shall the amount of the fee exceed six hundred dollars.

(C) The fee for a license or certificate issued pursuant to Chapter ~~1321.7~~ 4727.7 or 4728. of the Revised Code after the first day of January of the year the license or certificate expires shall be equal to one-half the amount determined according to divisions (A) and (B) of this section or in accordance with section 4728.03 of the Revised Code.

(D) If the renewal fees billed by the superintendent pursuant to divisions (A) and (B) of this section are less than the estimated expenditures of the consumer finance section of the division of financial institutions, as determined by the superintendent, for the following fiscal year, the superintendent may assess each person licensed pursuant to section 1321.04 ~~or registered pursuant to section 1321.53~~ of the Revised Code at a rate sufficient to equal in the aggregate the difference between the renewal fees billed and the estimated expenditures. Each person shall pay the assessed amount to the superintendent prior to the last day of June. In no case shall the assessment exceed ten cents per each one hundred dollars of interest (excluding charge-off recoveries), points, loan origination charges, and credit line charges collected by that person during the previous calendar year. If an assessment is imposed under this division, it shall not be less than two hundred fifty dollars per licensee or registrant and shall not exceed thirty thousand dollars less the total renewal fees paid pursuant to division (A) of this section

by each licensee or registrant.	81
Sec. 1321.51. As used in sections 1321.51 to 1321.60 of the	82
Revised Code:	83
(A) "Person" means an individual, partnership, association,	84
trust, corporation, or any other legal entity.	85
(B) "Certificate" means a certificate of registration issued	86
under sections 1321.51 to 1321.60 of the Revised Code.	87
(C) "Registrant" means a person to whom one or more	88
certificates <u>of registration</u> have been issued <u>under sections</u>	89
<u>1321.51 to 1321.60 of the Revised Code.</u>	90
(D) "Principal amount" means the amount of cash paid to, or	91
paid or payable for the account of, the borrower, and includes any	92
charge, fee, or expense that is financed by the borrower at	93
origination of the loan or during the term of the loan.	94
(E) "Interest" means all charges payable directly or	95
indirectly by a borrower to a registrant as a condition to a loan	96
or an application for a loan, however denominated, but does not	97
include default charges, deferment charges, insurance charges or	98
premiums, court costs, loan origination charges, check collection	99
charges, credit line charges, points, prepayment penalties, or	100
other fees and charges specifically authorized by law.	101
(F) "Interest-bearing loan" means a loan in which the debt is	102
expressed as the principal amount and interest is computed,	103
charged, and collected on unpaid principal balances outstanding	104
from time to time.	105
(G) "Precomputed loan" means a loan in which the debt is a	106
sum comprising the principal amount and the amount of interest	107
computed in advance on the assumption that all scheduled payments	108
will be made when due.	109

(H) "Actuarial method" means the method of allocating 110
payments made on a loan between the principal amount and interest 111
whereby a payment is applied first to the accumulated interest and 112
the remainder to the unpaid principal amount. 113

(I) "Applicable charge" means the amount of interest 114
attributable to each monthly installment period of the loan 115
contract. The applicable charge is computed as if each installment 116
period were one month and any charge for extending the first 117
installment period beyond one month is ignored. In the case of 118
loans originally scheduled to be repaid in sixty-one months or 119
less, the applicable charge for any installment period is that 120
proportion of the total interest contracted for, as the balance 121
scheduled to be outstanding during that period bears to the sum of 122
all of the periodic balances, all determined according to the 123
payment schedule originally contracted for. In all other cases, 124
the applicable charge for any installment period is that which 125
would have been made for such period had the loan been made on an 126
interest-bearing basis, based upon the assumption that all 127
payments were made according to schedule. 128

(J) "Broker" means a person who acts as an intermediary or 129
agent in finding, arranging, or negotiating loans, other than 130
residential mortgage loans, and charges or receives a fee for 131
these services. 132

(K) "Annual percentage rate" means the ratio of the interest 133
on a loan to the unpaid principal balances on the loan for any 134
period of time, expressed on an annual basis. 135

(L) "Point" means a charge equal to one per cent of either of 136
the following: 137

(1) The principal amount of a precomputed loan or 138
interest-bearing loan; 139

(2) The original credit line of an open-end loan. 140

(M) "Prepayment penalty" means a charge for prepayment of a 141
loan at any time prior to five years from the date the loan 142
contract is executed. 143

(N) "Refinancing" means a loan the proceeds of which are used 144
in whole or in part to pay the unpaid balance of a prior loan made 145
by the same registrant to the same borrower under sections 1321.51 146
to 1321.60 of the Revised Code. 147

(O) "Superintendent of financial institutions" includes the 148
deputy superintendent for consumer finance as provided in section 149
1181.21 of the Revised Code. 150

(P) (1) "Mortgage loan originator" means an individual who for 151
compensation or gain, or in anticipation of compensation or gain,
does any of the following: 152
153

(a) Takes or offers to take a residential mortgage loan 154
application: 155

(b) Assists or offers to assist a borrower in obtaining or 156
applying to obtain a residential mortgage loan by, among other 157
things, advising on loan terms, including rates, fees, and other 158
costs; 159

(c) Offers or negotiates terms of a residential mortgage 160
loan; 161

(d) Issues or offers to issue a commitment for a residential 162
mortgage loan to a borrower. 163

(2) "Mortgage loan originator" does not include any of the 164
following: 165

(a) An individual who performs purely administrative or 166
clerical tasks on behalf of a mortgage loan originator; 167

(b) A person licensed pursuant to Chapter 4735. of the 168

Revised Code, or under the similar law of another state, who 169
performs only real estate brokerage activities permitted by that 170
license, provided the person is not compensated by a mortgage 171
lender, mortgage broker, mortgage loan originator, or by any agent 172
thereof; 173

(c) A person solely involved in extensions of credit relating 174
to timeshare plans, as that term is defined in 11 U.S.C. 101, in 175
effect on January 1, 2009; 176

(d) A person acting solely as a loan processor or 177
underwriter, who does not represent to the public, through 178
advertising or other means of communicating, including the use of 179
business cards, stationery, brochures, signs, rate lists, or other 180
promotional items, that the person can or will perform any of the 181
activities of a mortgage loan originator; 182

(e) A loan originator licensed under sections 1322.01 to 183
1322.12 of the Revised Code, when acting solely under that 184
authority; 185

(f) A licensed attorney who negotiates the terms of a 186
residential mortgage loan on behalf of a client as an ancillary 187
matter to the attorney's representation of the client, unless the 188
attorney is compensated by a lender, a mortgage broker, or another 189
mortgage loan originator, or by any agent thereof; 190

(g) Any person engaged in the retail sale of manufactured 191
homes, mobile homes, or industrialized units if, in connection 192
with financing those retail sales, the person only assists the 193
borrower by providing or transmitting the loan application and 194
does not do any of the following: 195

(i) Offer or negotiate the residential mortgage loan rates or 196
terms; 197

(ii) Provide any counseling with borrowers about residential 198

<u>mortgage loan rates or terms;</u>	199
<u>(iii) Receive any payment or fee from any company or</u>	200
<u>individual for assisting the borrower obtain or apply for</u>	201
<u>financing to purchase the manufactured home, mobile home, or</u>	202
<u>industrialized unit;</u>	203
<u>(iv) Assist the borrower in completing the residential</u>	204
<u>mortgage loan application.</u>	205
<u>(3) An individual acting exclusively as a servicer engaging</u>	206
<u>in loss mitigation efforts with respect to existing mortgage</u>	207
<u>transactions shall not be considered a mortgage loan originator</u>	208
<u>for purposes of sections 1321.51 to 1321.60 of the Revised Code</u>	209
<u>until July 1, 2011, unless such delay is denied by the United</u>	210
<u>States department of housing and urban development.</u>	211
<u>(O) "Residential mortgage loan" means any loan primarily for</u>	212
<u>personal, family, or household use that is secured by a mortgage,</u>	213
<u>deed of trust, or other equivalent consensual security interest on</u>	214
<u>a dwelling or on residential real estate upon which is constructed</u>	215
<u>or intended to be constructed a dwelling. For purposes of this</u>	216
<u>division, "dwelling" has the same meaning as in the "Truth in</u>	217
<u>Lending Act," 82 Stat. 146, 15 U.S.C. 1602.</u>	218
<u>(R) "Nationwide mortgage licensing system and registry" means</u>	219
<u>a mortgage licensing system developed and maintained by the</u>	220
<u>conference of state bank supervisors and the American association</u>	221
<u>of residential mortgage regulators, or their successor entities,</u>	222
<u>for the licensing and registration of mortgage loan originators,</u>	223
<u>or any system established by the secretary of housing and urban</u>	224
<u>development pursuant to the "Secure and Fair Enforcement for</u>	225
<u>Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.</u>	226
<u>(S) "Registered mortgage loan originator" means an individual</u>	227
<u>to whom both of the following apply:</u>	228

(1) The individual is a mortgage loan originator and an employee of a depository institution, a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration. 229
230
231
232
233

(2) The individual is registered with, and maintains a unique identifier through, the nationwide mortgage licensing system and registry. 234
235
236

(T) "Administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan. 237
238
239
240
241

(U) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, and the federal deposit insurance corporation. 242
243
244
245
246

(V) "Loan processor or underwriter" means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensed mortgage loan originator or registered mortgage loan originator. For purposes of this division, "clerical or support duties" includes the following activities: 247
248
249
250
251
252

(1) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; 253
254
255

(2) Communicating with a borrower to obtain the information necessary for the processing or underwriting of a loan, to the extent the communication does not include offering or negotiating 256
257
258

loan rates or terms or counseling borrowers about residential mortgage loan rates or terms. 259
260

(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: 261
262
263

(1) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property; 264
265

(2) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property; 266
267

(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; 268
269
270
271

(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; 272
273
274

(5) Offering to engage in any activity, or to act in any capacity, described in division (W) of this section. 275
276

(X) "Licensee" means any person that has been issued a mortgage loan originator license under sections 1321.51 to 1321.60 of the Revised Code. 277
278
279

(Y) "Unique identifier" means a number or other identifier that permanently identifies a mortgage loan originator and is assigned by protocols established by the nationwide mortgage licensing system and registry or federal banking agencies to facilitate electronic tracking of mortgage loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against mortgage loan originators. 280
281
282
283
284
285
286
287

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

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

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

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

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

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

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

as amended. 318

(GG) "Mortgage broker" has the same meaning as in section 1322.01 of the Revised Code. 319
320

Sec. 1321.52. (A) (1) No person, on that person's own behalf 321
or on behalf of any other person, shall do ~~either~~ any of the 322
following without having first obtained a certificate of 323
registration from the division of financial institutions: 324

(a) Advertise, solicit, or hold out that the person is 325
engaged in the business of making residential mortgage loans 326
secured by a mortgage on a borrower's real estate which is other 327
than a first lien on the real estate; 328

(b) Engage in the business of lending or collecting the 329
person's own or another person's money, credit, or choses in 330
action for ~~such~~ non-first lien residential mortgage loans; 331

(c) Employ or compensate mortgage loan originators licensed 332
or who should be licensed under sections 1321.51 to 1321.60 of the 333
Revised Code to conduct the business of making residential 334
mortgage loans; 335

(d) Make loans in this state of the type set forth in 336
division (C) of this section that are unsecured or are secured by 337
other than real property, which loans are for more than five 338
thousand dollars at a rate of interest greater than permitted by 339
section 1343.01 or other specific provisions of the Revised Code. 340

(2) Each person issued a certificate of registration or 341
license is subject to all the rules prescribed under sections 342
1321.51 to 1321.60 of the Revised Code. 343

(B) (1) All loans made to persons who at the time are 344
residents of this state are considered as made within this state 345
and subject to the laws of this state, regardless of any statement 346

in the contract or note to the contrary, except as follows: 347

(a) If the loan is primarily secured by a lien on real property in another state and is arranged by a mortgage loan originator licensed by that state, the borrower may by choice of law designate that the transaction be governed by the law where the real property is located if the other state has consumer protection laws covering the borrower that are applicable to the transaction. 348
349
350
351
352
353
354

(b) If the loan is for the purpose of purchasing goods acquired by the borrower when the borrower is outside of this state, the loan may be governed by the laws of the other state. 355
356
357

(2) Nothing in division (B)(1) of this section prevents a choice of law or requires registration or licensure of persons outside of this state in a transaction involving the solicitation of residents of this state to obtain non-real estate secured loans that require the borrowers to physically visit a lender's out-of-state office to apply for and obtain the disbursement of loan funds. 358
359
360
361
362
363
364

(C) A registrant may make unsecured loans, loans secured by a mortgage on a borrower's real estate which is a first lien or other than a first lien on the real estate, loans secured by other than real estate, and loans secured by any combination of mortgages and security interests, on terms and conditions provided by sections 1321.51 to 1321.60 of the Revised Code. 365
366
367
368
369
370

(D) (1) If a lender that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a loan in violation of division (A) (1) of this section, the lender has no right to collect, receive, or retain any interest or charges on that loan. 371
372
373
374

(2) If a registrant applies to the division for a renewal of the registrant's certificate after the date required by division ~~(A) (4)~~ (A) (7) of section 1321.53 of the Revised Code, but prior to 375
376
377

the first day of ~~August~~ February of that year, and the division 378
 approves the application, division (D) (1) of this section does not 379
 apply with respect to any loan made by the registrant while the 380
 registrant's certificate was expired. 381

(3) If a person's registration under sections 1321.51 to 382
1321.60 of the Revised Code terminates due to nonrenewal or 383
otherwise but the person continues to engage in the business of 384
collecting or servicing non-first lien residential mortgage loans 385
in violation of division (A) (1) of this section, the 386
superintendent of financial institutions may take administrative 387
action, including action on any subsequent application for a 388
certificate of registration. In addition, no late fee, bad check 389
charge except as incurred, charge related to default or cost to 390
realize on its security interest, or prepayment penalty on 391
non-first lien residential mortgage loans shall be collected or 392
retained by a person who is in violation of division (A) (1) (b) of 393
this section for the period of time in which the person was in 394
violation. Nothing in division (D) (3) of this section prevents or 395
otherwise precludes any other actions or penalties provided by law 396
or modifies a defense of holder in due course that a subsequent 397
purchaser servicing the residential mortgage loan may raise. 398

399

(E) (1) No individual shall engage in the business of a 400
mortgage loan originator without first obtaining and maintaining 401
annually a license pursuant to section 1321.532 of the Revised 402
Code from the division of financial institutions. A mortgage loan 403
originator shall be employed or associated with a registrant or 404
entity exempt from registration under sections 1321.51 to 1321.60 405
of the Revised Code, but shall not be employed by or associated 406
with more than one registrant or exempt entity at any one time. 407

(2) An individual acting under the individual's authority as 408

a registered mortgage loan originator shall not be required to be licensed under division (E)(1) of this section.

409
410

(F)(1) Each licensee shall register with, and maintain a valid unique identifier issued by, the nationwide mortgage licensing system and registry.

411
412
413

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

414
415
416
417

(G)(1) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a loan in violation of division (A)(1)(d) of this section and subsequently sells or assigns that loan, the person is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate that would be applicable in the absence of sections 1321.51 to 1321.60 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D)(1) of this section.

418
419
420
421
422
423
424
425
426

(2) If a person that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a residential mortgage loan in violation of division (A)(1)(b) or (c) of this section and subsequently sells or assigns that loan, the lender is liable to the borrower for any interest paid on that loan to the holder or assignee in excess of the rate set forth in division (B)(4) of section 1343.01 of the Revised Code, in addition to any interest or charges paid on that loan to the unauthorized lender as provided by division (D)(1) of this section.

427
428
429
430
431
432
433
434
435

Sec. 1321.521. The superintendent of financial institutions may, by rule, expand the definition of mortgage loan originator in section 1321.51 of the Revised Code by adding individuals or may

436
437
438

exempt additional individuals or persons from that definition, if 439
the superintendent finds that the addition or exemption is 440
consistent with the purposes fairly intended by the policy and 441
provisions of sections 1321.51 to 1321.60 of the Revised Code and 442
the "Secure and Fair Enforcement for Mortgage Licensing Act of 443
2008," 122 Stat. 2810, 12 U.S.C. 5101. 444

Rules authorized by this section shall be adopted in 445
accordance with Chapter 119. of the Revised Code. 446

Sec. 1321.522. (A) A credit union service organization 447
seeking exemption from registration pursuant to division (D) (6) of 448
section 1321.53 of the Revised Code shall submit an application to 449
the superintendent of financial institutions along with a 450
nonrefundable fee of three hundred fifty dollars for each location 451
of an office to be maintained by the organization. The application 452
shall be in a form prescribed by the superintendent and shall 453
include all of the following: 454

(1) The organization's business name and state of 455
incorporation; 456

(2) The names of the owners, officers, or partners having 457
control of the organization; 458

(3) An attestation to all of the following: 459

(a) That the organization and its owners, officers, or 460
partners identified in division (A) (2) of this section have not 461
had a mortgage lender certificate of registration or mortgage loan 462
originator license, or any comparable authority, revoked in any 463
governmental jurisdiction; 464

(b) That the organization and its owners, officers, or 465
partners identified in division (A) (2) of this section have not 466
been convicted of, or pleaded guilty to, any of the following in a 467

domestic, foreign, or military court:

468

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

469

470

471

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

472

473

474

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

475

476

477

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

478

479

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

480

481

482

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

483

484

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

485

486

487

488

489

490

491

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

492

493

494

495

(C) All of the following conditions apply to any credit union

496

service organization holding a valid letter of exemption: 497

(1) The organization shall be subject to examination in the same manner as a registrant with respect to the conduct of the organization's mortgage loan originators. In conducting any out-of-state examination, the organization shall be responsible for paying the costs of the division in the same manner as a registrant. 498
499
500
501
502
503

(2) The organization shall have an affirmative duty to supervise the conduct of its mortgage loan originators, and to cooperate with investigations by the division with respect to that conduct, in the same manner as is required of registrants. 504
505
506
507

(3) The organization shall keep and maintain records of all transactions relating to the conduct of its mortgage loan originators in the same manner as is required of registrants. 508
509
510

(4) The organization may provide the surety bond for its mortgage loan originators in the same manner as is permitted for registrants. 511
512
513

(D) A letter of exemption expires annually on the thirty-first day of December and may be renewed on or before that date by submitting an application that meets the requirements of division (A) of this section and a nonrefundable renewal fee of three hundred fifty dollars for each location of an office to be maintained by the credit union service organization. 514
515
516
517
518
519

(E) The superintendent may issue a notice to revoke or suspend a letter of exemption if the superintendent finds that the letter was obtained through a false or fraudulent representation of a material fact, or the omission of a material fact, required by law, or that a condition for exemption is no longer being met. Prior to issuing an order of revocation or suspension, the credit union service organization shall be given an opportunity for a 520
521
522
523
524
525
526

hearing in accordance with Chapter 119. of the Revised Code. 527

(F) All information obtained by the division pursuant to an examination or investigation under this section shall be subject to the confidentiality requirements set forth in section 1321.55 of the Revised Code. 528
529
530
531

(G) All money collected under this section shall be deposited into the state treasury to the credit of the consumer finance fund created in section 1321.21 of the Revised Code. 532
533
534

Sec. 1321.53. (A) (1) An application for a certificate of registration under sections 1321.51 to 1321.60 of the Revised Code shall contain an undertaking by the applicant to abide by those sections. The application shall be in writing, under oath, and in the form prescribed by the division of financial institutions, ~~shall give the location where the business is to be conducted and the names and addresses of the partners, officers, or trustees of the applicant,~~ and shall contain any further relevant information that the division may require. Applicants that are foreign corporations shall obtain and maintain a license pursuant to Chapter 1703. of the Revised Code before a certificate is issued or renewed. 535
536
537
538
539
540
541
542
543
544
545
546

(2) Upon the filing of the application and the payment by the applicant of a nonrefundable two hundred dollars as an dollar investigation fee ~~and an, a nonrefundable three hundred dollar~~ annual registration fee ~~as determined by the superintendent of financial institutions pursuant to section 1321.20 of the Revised Code,~~ and any additional fee required by the nationwide mortgage licensing system and registry, the division shall investigate the relevant facts. If the application involves investigation outside this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of such 547
548
549
550
551
552
553
554
555
556

investigation, when it appears that these expenses will exceed two hundred dollars. An itemized statement of any of these expenses which the applicant is required to pay shall be furnished to the applicant by the division. No certificate shall be issued unless all the required fees have been submitted to the division, ~~and no registration fee or investigation fee will be returned after a certificate has been issued.~~

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

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

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

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

with division (A)(12) of section 109.572 of the Revised Code; 588

(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check as set forth in division (C) of section 1321.531 of the Revised Code. 589
590
591

(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. 592
593
594

(6) If an application for a certificate of registration does not contain all of the information required under division (A)(1) of this section, and if such information is not submitted to the division within ninety days after the application is filed superintendent requests the information in writing, the superintendent may consider the application withdrawn and may retain the investigation fee. 595
596
597
598
599
600
601

(4)(7) If the division finds that the financial responsibility, experience, character, and general fitness of the applicant are such as to command the confidence of the public and to warrant the belief that the business will be operated honestly and fairly in compliance with and within the purposes of sections 1321.51 to 1321.60 of the Revised Code and the rules adopted thereunder, and that the applicant has the requisite bond or applicable net worth and assets required by division (B) of this section, the division shall thereupon issue a certificate of registration to the applicant. The certificate superintendent shall not use a credit score as the sole basis for a registration denial. 602
603
604
605
606
607
608
609
610
611
612
613

(a)(i) Certificates of registration issued on or after July 1, 2010, shall annually expire on the first thirty-first day of July next after its issue, and on the first day of July in each succeeding year December, unless renewed by the filing of a renewal application and payment of a three hundred dollar 614
615
616
617
618

nonrefundable annual registration fee, and any assessment, as 619
determined by the superintendent pursuant to division 620
(A) (7) (a) (ii) of this section ~~1321.20 of the Revised Code, and any~~ 621
additional fee required by the nationwide mortgage licensing 622
system and registry, on or before the last day of ~~June~~ December of 623
each year. No other fee or assessment shall be required of a 624
registrant by the state or any political subdivision of ~~the~~ this 625
state. 626

(ii) If the renewal fees billed by the superintendent 627
pursuant to division (A) (7) (a) (i) of this section are less than 628
the estimated expenditures of the consumer finance section of the 629
division of financial institutions, as determined by the 630
superintendent, for the following fiscal year, the superintendent 631
may assess each registrant at a rate sufficient to equal in the 632
aggregate the difference between the renewal fees billed and the 633
estimated expenditures. Each registrant shall pay the assessed 634
amount to the superintendent prior to the last day of June. In no 635
case shall the assessment exceed ten cents per each one hundred 636
dollars of interest (excluding charge-off recoveries), points, 637
loan origination charges, and credit line charges collected by 638
that registrant during the previous calendar year. If such an 639
assessment is imposed, it shall not be less than two hundred fifty 640
dollars per registrant and shall not exceed thirty thousand 641
dollars less the total renewal fees paid pursuant to division 642
(A) (7) (a) (i) of this section by each registrant. 643

(b) Registrants shall timely file renewal applications on 644
forms prescribed by the division and provide any further 645
information that the division may require. If a renewal 646
application does not contain all of the information required under 647
this section, and if that information is not submitted to the 648
division within ninety days after the superintendent requests the 649
information in writing, the superintendent may consider the 650

application withdrawn.

651

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

652

653

654

655

(d) If the division ~~does not so find~~ finds the applicant does not meet the conditions set forth in this section, it shall ~~enter an order denying~~ issue a notice of intent to deny the application, and forthwith notify the applicant of the denial, the grounds for the denial, and the applicant's reasonable opportunity to be heard on the action in accordance with Chapter 119. of the Revised Code. ~~In the event of denial, the division shall return the registration fee but retain the investigation fee.~~

656

657

658

659

660

661

662

663

~~(5)~~(8) If there is a change of ~~ten~~ 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) ~~(4)~~(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.

664

665

666

667

668

669

670

671

672

673

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

674

675

676

677

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

678

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

679

680

in the conduct of the business.

681

(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 ~~as determined by the superintendent pursuant to section 1321.20 of the Revised Code~~ 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 the new name without cost. Sections 1321.51 to 1321.60 of the Revised Code do not limit the loans of any registrant to residents of the community in which the registrant's place of business is situated. Each certificate shall be kept conspicuously posted in the place of business of the registrant and is not transferable or assignable.

682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704

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

705
706

(1) ~~Persons~~ Entities chartered and lawfully doing business under the authority of any law of this state, another state, or the United States ~~relating to banks as a bank, savings banks bank,~~ trust ~~companies~~ company, savings and loan ~~associations~~ association, or credit ~~unions~~ union, or a subsidiary of any such

707
708
709
710
711

entity, which subsidiary is regulated by a federal banking agency 712
and is owned and controlled by such a depository institution; 713

(2) Life, property, or casualty insurance companies licensed 714
to do business in this state; 715

(3) Any person that is a lender making a loan pursuant to 716
sections 1321.01 to 1321.19 of the Revised Code or a business loan 717
as described in division (B)(6) of section 1343.01 of the Revised 718
Code; 719

(4) Any political subdivision, or any governmental agency or 720
other public entity, corporation, instrumentality, or any entity 721
included under division (B)(3) of section 1343.01 of the Revised 722
Code agency, in or of the United States or any state of the United 723
States, or any entity described in division (B)(3) of section 724
1343.01 of the Revised Code; 725

(5) A college or university, or controlled entity of a 726
college or university, as those terms are defined in section 727
1713.05 of the Revised Code; 728

(6) A credit union service organization, provided the 729
organization utilizes services provided by registered mortgage 730
loan originators or the organization complies with section 731
1321.522 of the Revised Code and holds a valid letter of exemption 732
issued by the superintendent. 733

(E) No person engaged in the business of selling tangible 734
goods or services related to tangible goods may receive or retain 735
a certificate under sections 1321.51 to 1321.60 of the Revised 736
Code for such place of business. 737

Sec. 1321.531. (A) An application for a mortgage loan 738
originator license shall be in writing, under oath, and in the 739
form prescribed by the superintendent of financial institutions. 740
The application shall be accompanied by a nonrefundable 741

application fee of one hundred fifty dollars and all other 742
required fees, including any fees required by the nationwide 743
mortgage licensing system and registry. 744

(B) The superintendent may establish relationships or enter 745
into contracts with the nationwide mortgage licensing system and 746
registry, or any entities designated by it, to collect and 747
maintain records and process transaction fees or other fees 748
related to mortgage loan originator licensees or other persons 749
subject to or involved in their licensure. 750

(C) In connection with applying for a mortgage loan 751
originator license, the applicant shall furnish to the nationwide 752
mortgage licensing system and registry the following information 753
concerning the applicant's identity: 754

(1) The applicant's fingerprints for submission to the 755
federal bureau of investigation, and any other governmental agency 756
or entity authorized to receive such information, for purposes of 757
a state, national, and international criminal history background 758
check; 759

(2) Personal history and experience in a form prescribed by 760
the nationwide mortgage licensing system and registry, along with 761
authorization for the superintendent and the nationwide mortgage 762
licensing system and registry to obtain the following: 763

(a) An independent credit report from a consumer reporting 764
agency; 765

(b) Information related to any administrative, civil, or 766
criminal findings by any governmental jurisdiction. 767

(D) In order to effectuate the purposes of divisions (C)(1) 768
and (C)(2)(b) of this section, the superintendent may use the 769
conference of state bank supervisors, or a wholly owned 770

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

771
772
773
774
775
776
777

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

778
779
780
781
782

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

783
784
785
786
787
788

(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;

789
790
791
792
793
794

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

795
796
797

(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.

798
799
800

(2) The superintendent of financial institutions shall 801
conduct a civil records check. 802

(3) If, in order to issue a license to an applicant, 803
additional investigation by the superintendent outside this state 804
is necessary, the superintendent may require the applicant to 805
advance sufficient funds to pay the actual expenses of the 806
investigation, if it appears that these expenses will exceed one 807
hundred dollars. The superintendent shall provide the applicant 808
with an itemized statement of the actual expenses that the 809
applicant is required to pay. 810

(F) If an application for a mortgage loan originator license 811
does not contain all of the information required under this 812
section, and if that information is not submitted to the 813
superintendent within ninety days after the superintendent 814
requests the information in writing, the superintendent may 815
consider the application withdrawn. 816

Sec. 1321.532. (A) Upon the conclusion of the investigation 817
required under division (E) of section 1321.531 of the Revised 818
Code, the superintendent of financial institutions shall issue a 819
mortgage loan originator license to the applicant if the 820
superintendent finds that all of the following conditions are met: 821

(1) The application is accompanied by the application fee and 822
any additional fee required by the nationwide mortgage licensing 823
system and registry. 824

If a check or other draft instrument is returned to the 825
superintendent for insufficient funds, the superintendent shall 826
notify the licensee by certified mail, return receipt requested, 827
that the license issued in reliance on the check or other draft 828
instrument will be canceled unless the licensee, within thirty 829
days after receipt of the notice, submits the application fee and 830

a one-hundred-dollar penalty to the superintendent. If the licensee does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the license shall be canceled immediately without a hearing, and the licensee shall cease activity as a mortgage loan originator.

831
832
833
834
835
836
837

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

838
839

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

840
841
842

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

843
844
845

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

846
847
848

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

849
850
851

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

852
853
854
855
856
857
858
859
860

(6) The applicant successfully completed the written test required under section 1321.535 of the Revised Code and the education requirements set forth in section 1321.534 of the Revised Code. 861
862
863
864

(7) The applicant is covered under a valid bond in compliance with section 1321.533 of the Revised Code. 865
866

(8) The applicant's financial responsibility, character, and general fitness command the confidence of the public and warrant the belief that the mortgage loan originator will operate honestly and fairly in compliance with the purposes of sections 1321.51 to 1321.60 of the Revised Code. The superintendent shall not use a credit score as the sole basis for a license denial. 867
868
869
870
871
872

(B) The license issued under division (A) of this section may be renewed annually on or before the thirty-first day of December if the superintendent finds that all of the following conditions are met: 873
874
875
876

(1) The renewal application is accompanied by a nonrefundable renewal fee of one hundred fifty dollars, and any additional fee required by the nationwide mortgage licensing system and registry. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the licensee by certified mail, return receipt requested, that the license renewed in reliance on the check or other draft instrument will be canceled unless the licensee, within thirty days after receipt of the notice, submits the renewal fee and a one-hundred-dollar penalty to the superintendent. If the licensee does not submit the renewal fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the license shall be canceled immediately without a hearing, and the licensee shall cease activity as a mortgage loan 877
878
879
880
881
882
883
884
885
886
887
888
889
890
891

originator. 892

(2) The applicant has completed at least eight hours of continuing education as required under section 1321.536 of the Revised Code. 893
894
895

(3) The applicant meets the conditions set forth in divisions (A)(2) to (8) of this section. 896
897

(4) The applicant's license is not subject to an order of suspension or an unpaid and past due fine imposed by the superintendent. 898
899
900

(C)(1) Subject to division (C)(2) of this section, if a license renewal application or fee, including any additional fee required by nationwide mortgage licensing system and registry, is received by the superintendent after the thirty-first day of December, the license shall not be considered renewed, and the applicant shall cease activity as a mortgage loan originator. 901
902
903
904
905
906

(2) Division (C)(1) of this section shall not apply if the applicant, no later than the thirty-first day of January, submits the renewal application and fee, including any additional fee required by nationwide mortgage licensing system and registry, and a one-hundred-dollar penalty to the superintendent. 907
908
909
910
911

(D) Mortgage loan originator licenses issued on or after July 1, 2010, shall annually expire on the thirty-first day of December. 912
913
914

(E) If a renewal application does not contain all of the information required under this section, and if that information is not submitted to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn. 915
916
917
918
919

Sec. 1321.533. (A)(1) A registrant engaged in residential 920

mortgage loan activity shall not conduct business in this state, 921
unless the registrant maintains the net worth and assets required 922
under division (B) of section 1321.53 of the Revised Code or has 923
obtained and maintains in effect at all times a corporate surety 924
bond issued by a bonding company or insurance company authorized 925
to do business in this state. 926

(a) The bond shall be in favor of the superintendent of 927
financial institutions. 928

(b) The bond shall be in the penal sum of one-half per cent 929
of the aggregate loan amount of residential mortgage loans 930
originated in the immediately preceding calendar year, but not 931
exceeding one hundred fifty thousand dollars. Under no 932
circumstances, however, shall the bond be less than fifty thousand 933
dollars and an additional penal sum of ten thousand dollars for 934
each location, in excess of one, at which the registrant conducts 935
business. 936

(c) The term of the bond shall coincide with the term of 937
registration. 938

(d) A copy of the bond shall be filed with the 939
superintendent. 940

(e) The bond shall be for the exclusive benefit of any 941
borrower injured by a violation by an employee, licensee, or 942
registrant of any provision of sections 1321.51 to 1321.60 of the 943
Revised Code or the rules adopted thereunder. 944

(f) The aggregate liability of the corporate surety for any 945
and all breaches of the conditions of the bond shall not exceed 946
the penal sum of the bond. 947

(2) An individual licensed as a mortgage loan originator and 948
employed or associated with an exempt entity as set forth in 949

division (D) of section 1321.53 of the Revised Code shall not 950
conduct business in this state, unless either the licensee or the 951
exempt entity on the licensee's behalf has obtained and maintains 952
in effect at all times a corporate surety bond issued by a bonding 953
company or insurance company authorized to do business in this 954
state. 955

(a) The bond shall be in favor of the superintendent. 956

(b) The bond shall be in the penal sum of one-half per cent 957
of the aggregate loan amount of residential mortgage loans 958
originated in the immediately preceding calendar year, but not 959
exceeding one hundred thousand dollars. Under no circumstances, 960
however, shall the bond be less than fifty thousand dollars. 961

(c) The term of the bond shall coincide with the term of 962
licensure. 963

(d) A copy of the bond shall be filed with the 964
superintendent. 965

(e) The bond shall be for the exclusive benefit of any 966
borrower injured by a violation by the licensee of any provision 967
of sections 1321.51 to 1321.60 of the Revised Code or the rules 968
adopted thereunder. 969

(f) The aggregate liability of the corporate surety for any 970
and all breaches of the conditions of the bond shall not exceed 971
the penal sum of the bond. 972

(g) Licensees covered by a corporate surety bond obtained by 973
a registrant or exempt entity they are employed by or associated 974
with shall not be required to obtain an individual bond. 975

(B)(1) The registrant or licensee shall give notice to the 976
superintendent by certified mail of any action that is brought by 977
a borrower against the licensee, registrant, or any mortgage loan 978
originator of the registrant alleging injury by a violation of any 979

provision of sections 1321.51 to 1321.60 of the Revised Code, and 980
of any judgment that is entered against the licensee, registrant, 981
or mortgage loan originator of the registrant by a borrower 982
injured by a violation of any provision of sections 1321.51 to 983
1321.60 of the Revised Code. The notice shall provide details 984
sufficient to identify the action or judgment, and shall be filed 985
with the superintendent within ten days after the commencement of 986
the action or notice to the registrant or licensee of entry of a 987
judgment. An exempt entity securing bonding for the licensees in 988
their employ shall report those actions by a borrower in the same 989
manner as is required of registrants. 990

(2) A corporate surety, within ten days after it pays any 991
claim or judgment, shall give notice to the superintendent by 992
certified mail of the payment, with details sufficient to identify 993
the person and the claim or judgment paid. 994

(C) Whenever the penal sum of the corporate surety bond is 995
reduced by one or more recoveries or payments, the registrant or 996
separately bonded licensee shall furnish a new or additional bond 997
under this section, so that the total or aggregate penal sum of 998
the bond or bonds equals the sum required by this section, or 999
shall furnish an endorsement executed by the corporate surety 1000
reinstating the bond to the required penal sum of it. 1001

(D) The liability of the corporate surety on the bond to the 1002
superintendent and to any borrower injured by a violation of any 1003
provision of sections 1321.51 to 1321.60 of the Revised Code shall 1004
not be affected in any way by any misrepresentation, breach of 1005
warranty, or failure to pay the premium, by any act or omission 1006
upon the part of the registrant or licensee, by the insolvency or 1007
bankruptcy of the registrant or licensee, or by the insolvency of 1008
the registrant's or licensee's estate. The liability for any act 1009
or omission that occurs during the term of the corporate surety 1010

bond shall be maintained and in effect for at least two years 1011
after the date on which the corporate surety bond is terminated or 1012
canceled. 1013

(E) The corporate surety bond shall not be canceled by the 1014
registrant, the licensee, or the corporate surety except upon 1015
notice to the superintendent by certified mail, return receipt 1016
requested. The cancellation shall not be effective prior to thirty 1017
days after the superintendent receives the notice. 1018

(F) No registrant or licensee shall fail to comply with this 1019
section. Any registrant or licensee that fails to comply with this 1020
section shall cease all mortgage lender or mortgage loan 1021
originator activity in this state until the registrant or licensee 1022
has complied with this section. 1023

Sec. 1321.534. (A) Mortgage loan originator applicants shall 1024
submit evidence acceptable to the superintendent of financial 1025
institutions that, except as set forth in division (D) of this 1026
section, the applicant has successfully completed at least twenty 1027
hours of pre-licensing instruction in a course or program of study 1028
reviewed and approved by the nationwide mortgage licensing system 1029
and registry. 1030

(B) A person having successfully completed the pre-licensing 1031
education requirements reviewed and approved by the nationwide 1032
mortgage licensing system and registry for any state within the 1033
previous five years shall be granted credit toward completion of 1034
the pre-licensing education requirements of this state. 1035

(C) Review and approval of a pre-licensing education course 1036
shall include review and approval of the course provider. 1037

(D) Notwithstanding division (A) of this section, if the 1038
nationwide mortgage licensing system and registry fails to have in 1039
place an approval program to ensure that all pre-licensing 1040

education courses meet the criteria set forth in division (A) of 1041
this section, the superintendent shall require, until that program 1042
is in place, evidence that the applicant has successfully 1043
completed twenty hours of instruction in a course or program of 1044
study approved by the superintendent that consists of at least all 1045
of the following: 1046

(1) Four hours of instruction concerning state and federal 1047
mortgage lending laws, which shall include no less than two hours 1048
on this chapter: 1049

(2) Four hours of instruction concerning the Ohio consumer 1050
sales practices act, Chapter 1345. of the Revised Code, as it 1051
applies to registrants and licensees: 1052

(3) Four hours of instruction concerning the loan application 1053
and closing process: 1054

(4) Two hours of instruction concerning the underwriting 1055
process: 1056

(5) Two hours of instruction concerning the secondary market 1057
for mortgage loans: 1058

(6) Two hours of instruction covering basic mortgage 1059
financing concepts and terms: 1060

(7) Two hours of instruction concerning the ethical 1061
responsibilities of a licensee, including with respect to 1062
confidentiality, consumer counseling, and the duties and standards 1063
of care created in section 1321.593 of the Revised Code. 1064

Sec. 1321.535. (A) Each applicant for a mortgage loan 1065
originator license shall submit to a written test that is 1066
developed and approved by the nationwide mortgage licensing system 1067
and registry and administered by a test provider approved by the 1068
nationwide mortgage licensing system and registry based upon 1069

reasonable standards. 1070

(1) The test shall adequately measure the applicant's 1071
knowledge and comprehension in appropriate subject matters, 1072
including ethics and federal and state law related to mortgage 1073
origination, fraud, consumer protection, the nontraditional 1074
mortgage marketplace, and fair lending issues. 1075

(2) An individual shall not be considered to have passed the 1076
test unless the individual achieves a test score of at least 1077
seventy-five per cent correct answers on all questions. 1078

(3) An individual may retake the test three consecutive times 1079
provided the period between taking the tests is at least thirty 1080
days. 1081

(4) After failing three consecutive tests, an individual 1082
shall be required to wait at least six months before taking the 1083
test again. 1084

(5) If a mortgage loan originator fails to maintain a valid 1085
license for a period of five years or longer, the individual shall 1086
be required to retake the test. For this purpose, any time during 1087
which the individual is a registered mortgage loan originator 1088
shall not be taken into account. 1089

(B) Notwithstanding division (A) of this section, if the 1090
nationwide mortgage licensing system and registry fails to have in 1091
place a testing process that meets the criteria set forth in that 1092
division, the superintendent shall require, until that process is 1093
in place, evidence that the mortgage loan originator applicant 1094
passed a written test acceptable to the superintendent. 1095

Sec. 1321.536. (A) Each mortgage loan originator licensee 1096
shall complete at least eight hours of continuing education every 1097
calendar year. To fulfill this requirement, the eight hours of 1098

continuing education must be offered in a course or program of study that includes all of the following: 1099
1100

(1) Three hours of applicable federal law and regulations; 1101

(2) Two hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; 1102
1103

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace. 1104
1105

(B) Continuing education courses shall be reviewed and approved by the nationwide mortgage licensing system and registry based upon reasonable standards. 1106
1107
1108

(C) The following conditions shall apply to the continuing education required by this section: 1109
1110

(1) An individual cannot take the same approved course in the same or successive years to meet the annual requirement for continuing education. 1111
1112
1113

(2) An individual can only receive credit for a continuing education course in the year in which the course is taken, unless the individual is making up a deficiency in continuing education as permitted by rule or order of the superintendent of financial institutions. 1114
1115
1116
1117
1118

(3) An individual who subsequently becomes unlicensed must complete the continuing education requirement for the last year in which the license was held prior to the issuance of a new or renewed license. 1119
1120
1121
1122

(4) A licensee who is approved as an instructor of an approved continuing education course may receive credit for the licensee's own annual continuing education requirement at the rate of two credit hours for every one hour taught. 1123
1124
1125
1126

(5) A person having successfully completed a continuing education course approved by the nationwide mortgage licensing system and registry for any state shall receive credit toward completion of the continuing education requirement of this state. 1127
 1128
 1129
 1130

(D) Notwithstanding division (B) of this section, until the nationwide mortgage licensing system and registry implements a review and approval process, the superintendent shall require evidence that the licensee has successfully completed at least eight hours of continuing education in a course or program of study approved by the superintendent. 1131
 1132
 1133
 1134
 1135
 1136

Sec. 1321.54. (A) The division of financial institutions may adopt, in accordance with Chapter 119. of the Revised Code, rules that are necessary for the enforcement or administration of sections 1321.51 to 1321.60 of the Revised Code and that are consistent with those sections. ~~Each rule shall contain a reference to the section, division, or paragraph of the Revised Code to which it applies. The division shall send by regular mail to each registrant a copy of each rule that is adopted pursuant to this section~~ and rules to carry out the purposes of those sections. 1137
 1138
 1139
 1140
 1141
 1142
 1143
 1144
 1145
 1146

(B) ~~(1)~~ The division ~~shall~~ may, upon written notice to the registrant or licensee stating the contemplated action, the grounds for the action, and the registrant's or licensee's reasonable opportunity to be heard on the action in accordance with Chapter 119. of the Revised Code, revoke, suspend, or refuse to renew any certificate or license issued under sections 1321.51 to 1321.60 of the Revised Code, ~~or impose a monetary fine, if it finds that the registrant has continued to violate those sections, after receiving notice of the violation or violations from the division, or is in default in the payment of the annual assessment or certificate of registration fee prescribed in section 1321.20~~ 1147
 1148
 1149
 1150
 1151
 1152
 1153
 1154
 1155
 1156
 1157

~~of the Revised Code. The~~ any of the following: 1158

(a) A violation of or failure to comply with any provision of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder, any federal lending law, or any other law applicable to the business conducted under a certificate of registration or license; 1159
1160
1161
1162
1163

(b) The person has been convicted of or pleaded guilty to any criminal felony offense in a domestic, foreign, or military court; 1164
1165

(c) The person has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, breach of trust, dishonesty, or drug trafficking, or any criminal offense involving money or securities, in a domestic, foreign, or military court; 1166
1167
1168
1169
1170
1171

(d) The person's mortgage lender certificate of registration or mortgage loan originator license, or comparable authority, has been revoked in any governmental jurisdiction. 1172
1173
1174

(2) In addition to, or in lieu of, any revocation, suspension, or denial, the division may impose a monetary fine after administrative hearing or in settlement of matters subject to claims under division (B)(1)(a) of this section. 1175
1176
1177
1178

(3) Subject to division (D)(3) of section 1321.52 of the Revised Code, the revocation, suspension, or refusal to renew shall not impair the obligation of any pre-existing lawful contract made under sections 1321.51 to 1321.60 of the Revised Code; provided, however, that a prior registrant shall make good faith efforts to promptly transfer the registrant's collection rights to another registrant or person exempt from registration, or be subject to additional monetary fines and legal or administrative action by the division. Nothing in division (B)(3) of this section shall limit a court's ability to impose a cease 1179
1180
1181
1182
1183
1184
1185
1186
1187
1188

and desist order preventing any further business or servicing activity. 1189
1190

(C) (1) The superintendent of financial institutions may impose a fine for a violation of sections 1321.51 to 1321.60 of the Revised Code or any rule adopted thereunder. All fines collected pursuant to this section shall be paid to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code. In determining the amount of a fine to be imposed pursuant to this section, the superintendent may consider all of the following to the extent it is known to the division of financial institutions: 1191
1192
1193
1194
1195
1196
1197
1198
1199

(a) The seriousness of the violation; 1200

(b) The registrant's or licensee's good faith efforts to prevent the violation; 1201
1202

(c) The registrant's or licensee's history regarding violations and compliance with division orders; 1203
1204

(d) The registrant's or licensee's financial resources; 1205

(e) Any other matters the superintendent considers appropriate in enforcing sections 1321.51 to 1321.60 of the Revised Code. 1206
1207
1208

(2) Monetary fines imposed under this division shall not exceed twenty-five thousand dollars and do not preclude any criminal fine imposed pursuant to section 1321.99 of the Revised Code. 1209
1210
1211
1212

~~(C)~~ (D) The superintendent of financial institutions may investigate alleged violations of sections 1321.51 to 1321.60 of the Revised Code, or the rules adopted thereunder, or complaints concerning any such violation. The superintendent may make application to the court of common pleas for an order enjoining any such violation and, upon a showing by the superintendent that 1213
1214
1215
1216
1217
1218

a person has committed, or is about to commit, ~~such~~ a violation, 1219
the court shall grant an injunction, restraining order, or other 1220
appropriate relief. The superintendent, in making application to 1221
the court of common pleas for an order enjoining a person from 1222
acting as a registrant or mortgage loan originator in violation of 1223
division (A) or (E) of section 1321.52 of the Revised Code, may 1224
also seek and obtain civil penalties for that unregistered or 1225
unlicensed conduct in an amount not to exceed five thousand 1226
dollars per violation. 1227

~~(D)~~(E) In conducting an investigation pursuant to this 1228
section, the superintendent may compel, by subpoena, witnesses to 1229
testify in relation to any matter over which the superintendent 1230
has jurisdiction, and may require the production or photocopying 1231
of any book, record, or other document pertaining to such matter. 1232
If a person fails to file any statement or report, obey any 1233
subpoena, give testimony, produce any book, record, or other 1234
document as required by such a subpoena, or permit photocopying of 1235
any book, record, or other document subpoenaed, the court of 1236
common pleas of any county in this state, upon application made to 1237
it by the superintendent, shall compel obedience by attachment 1238
proceedings for contempt, as in the case of disobedience of the 1239
requirements of a subpoena issued from the court, or a refusal to 1240
testify therein. 1241

~~(E)~~(F) If the superintendent determines that a person is 1242
engaged in, or is believed to be engaged in, activities that may 1243
constitute a violation of sections 1321.51 to 1321.60 of the 1244
Revised Code or the rules adopted thereunder, the superintendent 1245
may, after notice and a hearing conducted in accordance with 1246
Chapter 119. of the Revised Code, issue a cease and desist order. 1247
The superintendent, in taking administrative action to enjoin a 1248
person from acting as a registrant or mortgage loan originator in 1249
violation of division (A) or (E) of section 1321.52 of the Revised 1250

Code, may also seek and impose fines for those violations in an 1251
amount not to exceed five thousand dollars per violation. Such an 1252
order shall be enforceable in the court of common pleas. 1253

(G) The superintendent shall regularly report violations of 1254
sections 1321.51 to 1321.60 of the Revised Code, as well as 1255
enforcement actions and other relevant information, to the 1256
nationwide mortgage licensing system and registry pursuant to 1257
division (E) of section 1321.55 of the Revised Code. 1258

(H) (1) To protect the public interest, the superintendent 1259
may, without a prior hearing, do any of the following: 1260

(a) Suspend the certificate of registration or license of a 1261
person who is convicted of or pleads guilty to a criminal 1262
violation of sections 1321.51 to 1321.60 of the Revised Code or 1263
any criminal offense described in division (B) (1) (b) or (c) of 1264
this section; 1265

(b) Suspend the certificate of registration or license of a 1266
person who violates division (F) of section 1321.533 of the 1267
Revised Code; 1268

(c) Suspend the certificate of registration or license of a 1269
person who fails to comply with a request made by the 1270
superintendent under this section or section 1321.55 of the 1271
Revised Code to inspect qualifying education transcripts located 1272
at the registrant's or licensee's place of business. 1273

(2) The superintendent may, in accordance with Chapter 119. 1274
of the Revised Code, subsequently revoke any registration or 1275
license suspended under division (H) (1) of this section. 1276

(3) The superintendent shall, in accordance with Chapter 119. 1277
of the Revised Code, adopt rules establishing the maximum amount 1278
of time a suspension under division (H) (1) of this section may 1279
continue before a hearing is conducted. 1280

Sec. 1321.55. (A) Every registrant shall keep records 1281
 pertaining to loans made under sections 1321.51 to 1321.60 of the 1282
 Revised Code. Such records shall be segregated from records 1283
 pertaining to transactions that are not subject to these sections 1284
 of the Revised Code. Every registrant shall preserve records 1285
 pertaining to loans made under sections 1321.51 to 1321.60 of the 1286
 Revised Code for at least two years after making the final entry 1287
 on such records. Accounting systems maintained in whole or in part 1288
 by mechanical or electronic data processing methods that provide 1289
 information equivalent to that otherwise required are acceptable 1290
 for this purpose. At least once each eighteen-month cycle, the 1291
 division of financial institutions shall make or cause to be made 1292
 an examination of records pertaining to loans made under sections 1293
 1321.51 to 1321.60 of the Revised Code, for the purpose of 1294
 determining whether the registrant is complying with these 1295
 sections and of verifying the registrant's annual report. 1296

(B)(1) As required by the superintendent of financial 1297
 institutions, each registrant shall file with the division each 1298
 year a report under oath or affirmation, on forms supplied by the 1299
 division, concerning the business and operations for the preceding 1300
 calendar year. Whenever a registrant operates two or more 1301
 registered offices or whenever two or more affiliated registrants 1302
 operate registered offices, then a composite report of the group 1303
 of registered offices may be filed in lieu of individual reports. 1304

(2) The division shall publish annually an analysis of the 1305
 information required under division (B)(1) of this section, but 1306
 the individual reports shall not be public records and shall not 1307
 be open to public inspection. 1308

(3) Each licensee shall submit to the nationwide mortgage 1309
licensing system and registry call reports or other reports of 1310
condition, which shall be in such form and shall contain such 1311

information as the nationwide mortgage licensing system and registry may require.

1312

1313

~~(C) All information obtained by the superintendent or the superintendent's deputies, examiners, assistants, agents, or clerks by reason of their official position, including information obtained by such persons from the annual report of a registrant or in the course of examining a registrant or investigating an applicant for a certificate, is privileged and confidential. All such information shall remain privileged and confidential for all purposes except when it is necessary for the superintendent and the superintendent's deputies, examiners, assistants, agents, or clerks to take official action regarding the affairs of the registrant or in connection with criminal proceedings. Such information may also be introduced into evidence or disclosed when and in the manner authorized in section 1181.25 of the Revised Code.~~

1314

1315

1316

1317

1318

1319

1320

1321

1322

1323

1324

1325

1326

1327

~~(D) No person is in violation of sections 1321.51 to 1321.60 of the Revised Code for any act taken or omission made in reliance on a written notice, interpretation, or examination report from the superintendent.~~

1328

1329

1330

1331

~~(E) This section does not prevent the division from releasing to or exchanging with other financial institution regulatory authorities information relating to registrants.~~

1332

1333

1334

~~(F) For purposes of this section, "financial institution regulatory authority" includes a regulator of a business activity in which a registrant is engaged, or has applied to engage in, to the extent that the regulator has jurisdiction over a registrant engaged in that business activity. A registrant is engaged in a business activity, and a regulator of that business activity has jurisdiction over the registrant, whether the registrant conducts the activity directly or a subsidiary or affiliate of the~~

1335

1336

1337

1338

1339

1340

1341

1342

registrant conducts the activity (1) The following information is 1343
confidential: 1344

(a) Examination information, and any information leading to 1345
or arising from an examination: 1346

(b) Investigation information, and any information arising 1347
from or leading to an investigation. 1348

(2) The information described in division (C)(1) of this 1349
section shall remain confidential for all purposes except when it 1350
is necessary for the superintendent to take official action 1351
regarding the affairs of a registrant or licensee, or in 1352
connection with criminal or civil proceedings to be initiated by a 1353
prosecuting attorney or the attorney general. This information may 1354
also be introduced into evidence or disclosed when and in the 1355
manner authorized by section 1181.25 of the Revised Code. 1356

(D) All application information, except social security 1357
numbers, employer identification numbers, financial account 1358
numbers, the identity of the institution where financial accounts 1359
are maintained, personal financial information, fingerprint cards 1360
and the information contained on such cards, and criminal 1361
background information, is a public record as defined in section 1362
149.43 of the Revised Code. 1363

(E) This section does not prevent the division of financial 1364
institutions from releasing to or exchanging with other financial 1365
institution regulatory authorities information relating to 1366
registrants and licensees. For this purpose, a "financial 1367
institution regulatory authority" includes a regulator of a 1368
business activity in which a registrant or licensee is engaged, or 1369
has applied to engage in, to the extent that the regulator has 1370
jurisdiction over a registrant or licensee engaged in that 1371
business activity. A registrant or licensee is engaged in a 1372
business activity, and a regulator of that business activity has 1373

jurisdiction over the registrant or licensee, whether the 1374
registrant or licensee conducts the activity directly or a 1375
subsidiary or affiliate of the registrant or licensee conducts the 1376
activity. 1377

(1) Any confidentiality or privilege arising under federal or 1378
state law with respect to any information or material provided to 1379
the nationwide mortgage licensing system and registry shall 1380
continue to apply to the information or material after the 1381
information or material has been provided to the nationwide 1382
mortgage licensing system and registry. The information and 1383
material so provided may be shared with all state and federal 1384
regulatory officials with mortgage industry oversight authority 1385
without the loss of confidentiality or privilege protections 1386
provided by federal law or the law of any state. Information or 1387
material described in division (E) (1) of this section to which 1388
confidentiality or privilege applies shall not be subject to any 1389
of the following: 1390

(a) Disclosure under any federal or state law governing 1391
disclosure to the public of information held by an officer or an 1392
agency of the federal government or of the respective state; 1393

(b) Subpoena or discovery, or admission into evidence, in any 1394
private civil action or administrative process, unless the person 1395
to whom such information or material pertains waives, in whole or 1396
in part and at the discretion of the person, any privilege held by 1397
the nationwide mortgage licensing system and registry with respect 1398
to that information or material. 1399

(2) The superintendent, in order to promote more effective 1400
regulation and reduce regulatory burden through supervisory 1401
information sharing, may enter into sharing arrangements with 1402
other governmental agencies, the conference of state bank 1403
supervisors, and the American association of residential mortgage 1404

regulators. 1405

(3) Any state law, including section 149.43 of the Revised Code, relating to the disclosure of confidential supervisory information or any information or material described in division (C) (1) or (E) (1) of this section that is inconsistent with this section shall be superseded by the requirements of this section. 1406
1407
1408
1409
1410

(F) This section shall not apply with respect to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the nationwide mortgage licensing system and registry for access by the public. 1411
1412
1413
1414
1415

(G) This section does not prevent the division from releasing information relating to registrants and licensees to the attorney general, to the superintendent of real estate and professional licensing for purposes relating to the administration of Chapters 4735. and 4763. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the commissioner of securities for purposes relating to the administration of Chapter 1707. of the Revised Code, or to local law enforcement agencies and local prosecutors. Information the division releases pursuant to this section remains confidential. 1416
1417
1418
1419
1420
1421
1422
1423
1424
1425
1426

(H) The superintendent of financial institutions shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish a process by which mortgage loan originators may challenge information provided to the nationwide mortgage licensing system and registry by the superintendent. 1427
1428
1429
1430
1431

(I) No person, in connection with any examination or investigation conducted by the superintendent under sections 1321.51 to 1321.60 of the Revised Code, shall knowingly do any of the following: 1432
1433
1434
1435

(1) Circumvent, interfere with, obstruct, or fail to cooperate, including making a false or misleading statement, failing to produce records, or intimidating or suborning any witness; 1436
1437
1438
1439

(2) Withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information; 1440
1441

(3) Tamper with, alter, or manufacture any evidence. 1442

Sec. 1321.551. (A) No registrant shall conduct the business 1443
of making loans under sections 1321.51 to 1321.60 of the Revised 1444
Code in any office, room, or place of business in which any other 1445
business is solicited or engaged in, or in association or 1446
conjunction with any other such business, if the superintendent of 1447
financial institutions finds, pursuant to a hearing conducted in 1448
accordance with Chapter 119. of the Revised Code, that the other 1449
business is of such a nature that the conduct tends to conceal 1450
evasion of sections 1321.51 to 1321.60 of the Revised Code or of 1451
the rules adopted under those sections, and orders the registrant 1452
in writing to desist from the conduct. 1453

(B) The business of a mortgage loan originator shall principally be transacted at an office of the registrant with whom the licensee is employed or associated, which office is registered, if applicable, in accordance with division (A)(1) of section 1321.52 of the Revised Code. Each original mortgage loan originator license shall be deposited with and maintained at the registrant's main office. A copy of the mortgage loan originator license shall be maintained and displayed at the office where the mortgage loan originator principally transacts business. 1454
1455
1456
1457
1458
1459
1460
1461
1462

(C) If a mortgage loan originator's employment or association is terminated for any reason, the registrant shall return the original mortgage loan originator license to the superintendent 1463
1464
1465

within five business days after the termination. The licensee may 1466
request the transfer of the license to another registrant by 1467
submitting a transfer application, along with a fifteen dollar fee 1468
and any fee required by the national mortgage licensing system and 1469
registry, to the superintendent, or may request in writing that 1470
the superintendent hold the license in escrow. A licensee whose 1471
license is held in escrow shall cease activity as a mortgage loan 1472
originator. A licensee whose license is held in escrow shall be 1473
required to apply for renewal annually and to comply with the 1474
annual continuing education requirement. 1475

(D) A registrant may employ or be associated with a mortgage 1476
loan originator on a temporary basis pending the transfer of the 1477
mortgage loan originator's license to the registrant, if the 1478
registrant receives written confirmation from the superintendent 1479
that the mortgage loan originator is licensed under sections 1480
1321.51 to 1321.60 of the Revised Code. 1481

(E) Notwithstanding divisions (B), (C), and (D) of this 1482
section, if a mortgage loan originator is employed by or 1483
associated with a person claiming an exemption under division (D) 1484
of section 1321.53 of the Revised Code, the mortgage loan 1485
originator shall maintain and display the original mortgage loan 1486
originator license at the office where the mortgage loan 1487
originator principally transacts business. 1488

If the mortgage loan originator's employment or association 1489
is terminated for any reason, the licensee shall return the 1490
original mortgage loan originator license to the superintendent 1491
within five business days after the termination. The licensee may 1492
request the transfer of the license to a mortgage broker or other 1493
person claiming an exemption under division (D) of section 1321.53 1494
of the Revised Code by submitting a transfer application, along 1495
with a fifteen dollar fee and any fee required by the national 1496

mortgage licensing system and registry, to the superintendent, or 1497
may request the superintendent in writing to hold the license in 1498
escrow. A licensee whose license is held in escrow shall cease 1499
activity as a mortgage loan originator. A licensee whose license 1500
is held in escrow shall be required to apply for renewal annually 1501
and to comply with the annual continuing education requirement. 1502

The licensee may seek to be employed or associated with a 1503
mortgage broker or other person claiming an exemption under 1504
division (D) of section 1321.53 of the Revised Code if the 1505
mortgage broker or person receives written confirmation from the 1506
superintendent that the mortgage loan originator is licensed under 1507
sections 1321.51 to 1321.60 of the Revised Code. 1508

(F) No registrant, through its managers or otherwise, shall 1509
fail to do either of the following: 1510

(1) Reasonably supervise mortgage loan originators or other 1511
persons employed by or associated with the registrant; 1512

(2) Establish reasonable procedures designed to avoid 1513
violations of sections 1321.51 to 1321.60 of the Revised Code or 1514
rules adopted thereunder, or violations of applicable state and 1515
federal consumer and lending laws or rules, by mortgage loan 1516
originators or other persons employed by or associated with the 1517
registrant. 1518

(G) A license, or the authority granted under that license, 1519
is not assignable and cannot be franchised by contract or any 1520
other means. 1521

Sec. 1321.552. (A) Notwithstanding any provision of sections 1522
1321.51 to 1321.60 of the Revised Code, or any rule adopted 1523
thereunder, if the "Secure and Fair Enforcement for Mortgage 1524
Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, as 1525
amended, is modified after the effective date of this section, or 1526

any regulation, statement, or position is adopted under that act, 1527
and the item modified or adopted affects any matter within the 1528
scope of sections 1321.51 to 1321.60 of the Revised Code, the 1529
superintendent of financial institutions may by rule adopt a 1530
similar provision. 1531

(B) The superintendent shall adopt the rules authorized by 1532
this section in accordance with section 111.15 of the Revised 1533
Code. Chapter 119. of the Revised Code does not apply to rules 1534
adopted under the authority of this section. 1535

(C) A rule adopted by the superintendent under the authority 1536
of this section is effective on the later of the following dates: 1537

(1) The date the superintendent issues the rule; 1538

(2) The date the regulation, rule, interpretation, procedure, 1539
or guideline the superintendent's rule is based on becomes 1540
effective. 1541

(D) The superintendent may, upon thirty days' written notice, 1542
revoke any rule adopted under the authority of this section. A 1543
rule adopted under the authority of this section, and not revoked 1544
by the superintendent, lapses and has no further force and effect 1545
eighteen months after the rule's effective date. 1546

Sec. 1321.57. (A) Notwithstanding any other provisions of the 1547
 Revised Code, a registrant may contract for and receive interest, 1548
 calculated according to the actuarial method, at a rate or rates 1549
 not exceeding twenty-one per cent per year on the unpaid principal 1550
 balances of the loan. Loans may be interest-bearing or 1551
 precomputed. 1552

(B) For purposes of computation of time on interest-bearing 1553
 and precomputed loans, including, but not limited to, the 1554
 calculation of interest, a month is considered one-twelfth of a 1555

year, and a day is considered one three hundred sixty-fifth of a 1556
year when calculation is made for a fraction of a month. A year is 1557
as defined in section 1.44 of the Revised Code. A month is that 1558
period described in section 1.45 of the Revised Code. 1559
Alternatively, a registrant may consider a day as one three 1560
hundred sixtieth of a year and each month as having thirty days. 1561

(C) With respect to interest-bearing loans: 1562

(1) (a) Interest shall be computed on unpaid principal 1563
balances outstanding from time to time, for the time outstanding. 1564

(b) As an alternative to the method of computing interest set 1565
forth in division (C) (1) (a) of this section, a registrant may 1566
charge and collect interest for the first installment period based 1567
on elapsed time from the date of the loan to the first scheduled 1568
payment due date, and for each succeeding installment period from 1569
the scheduled payment due date to the next scheduled payment due 1570
date, regardless of the date or dates the payments are actually 1571
made. 1572

(c) Whether a registrant computes interest pursuant to 1573
division (C) (1) (a) or (b) of this section, each payment shall be 1574
applied first to unpaid charges, then to interest, and the 1575
remainder to the unpaid principal balance. However, if the amount 1576
of the payment is insufficient to pay the accumulated interest, 1577
the unpaid interest continues to accumulate to be paid from the 1578
proceeds of subsequent payments and is not added to the principal 1579
balance. 1580

(2) Interest shall not be compounded, collected, or paid in 1581
advance. However, both of the following apply: 1582

(a) Interest may be charged to extend the first monthly 1583
installment period by not more than fifteen days, and the interest 1584
charged for the extension may be added to the principal amount of 1585

the loan. 1586

(b) If part or all of the consideration for a new loan 1587
contract is the unpaid principal balance of a prior loan, the 1588
principal amount payable under the new loan contract may include 1589
any unpaid interest that has accrued. The resulting loan contract 1590
shall be deemed a new and separate loan transaction for purposes 1591
of this section. The unpaid principal balance of a precomputed 1592
loan is the balance due after refund or credit of unearned 1593
interest as provided in division (D)(3) of this section. 1594

(D) With respect to precomputed loans: 1595

(1) Loans shall be repayable in monthly installments of 1596
principal and interest combined, except that the first installment 1597
period may exceed one month by not more than fifteen days, and the 1598
first installment payment amount may be larger than the remaining 1599
payments by the amount of interest charged for the extra days; and 1600
provided further that monthly installment payment dates may be 1601
omitted to accommodate borrowers with seasonal income. 1602

(2) Payments may be applied to the combined total of 1603
principal and precomputed interest until maturity of the loan. A 1604
registrant may charge interest after the original or deferred 1605
maturity of a precomputed loan at the rate specified in division 1606
(A) of this section on all unpaid principal balances for the time 1607
outstanding. 1608

(3) When any loan contract is paid in full by cash, renewal, 1609
refinancing, or a new loan, one month or more before the final 1610
installment due date, the registrant shall refund, or credit the 1611
borrower with, the total of the applicable charges for all fully 1612
unexpired installment periods, as originally scheduled or as 1613
deferred, that follow the day of prepayment. If the prepayment is 1614
made other than on a scheduled installment due date, the nearest 1615
scheduled installment due date shall be used in such computation. 1616

If the prepayment occurs prior to the first installment due date, 1617
the registrant may retain one-thirtieth of the applicable charge 1618
for a first installment period of one month for each day from date 1619
of loan to date of prepayment, and shall refund, or credit the 1620
borrower with, the balance of the total interest contracted for. 1621
If the maturity of the loan is accelerated for any reason and 1622
judgment is entered, the registrant shall credit the borrower with 1623
the same refund as if prepayment in full had been made on the date 1624
the judgment is entered. 1625

(4) If the parties agree in writing, either in the loan 1626
contract or in a subsequent agreement, to a deferment of wholly 1627
unpaid installments, a registrant may grant a deferment and may 1628
collect a deferment charge as provided in this section. A 1629
deferment postpones the scheduled due date of the earliest unpaid 1630
installment and all subsequent installments as originally 1631
scheduled, or as previously deferred, for a period equal to the 1632
deferment period. The deferment period is that period during which 1633
no installment is scheduled to be paid by reason of the deferment. 1634
The deferment charge for a one-month period may not exceed the 1635
applicable charge for the installment period immediately following 1636
the due date of the last undeferred installment. A proportionate 1637
charge may be made for deferment for periods of more or less than 1638
one month. A deferment charge is earned pro rata during the 1639
deferment period and is fully earned on the last day of the 1640
deferment period. If a loan is prepaid in full during a deferment 1641
period, the registrant shall make, or credit to the borrower, a 1642
refund of the unearned deferment charge in addition to any other 1643
refund or credit made for prepayment of the loan in full. 1644

(E) A registrant, at the request of the borrower, may obtain, 1645
on one or more borrowers, credit life insurance, credit accident 1646
and health insurance, and unemployment insurance. The premium or 1647

identifiable charge for the insurance may be included in the 1648
principal amount of the loan and may not exceed the premium rate 1649
filed by the insurer with the superintendent of insurance and not 1650
disapproved by the superintendent. If a registrant obtains the 1651
insurance at the request of the borrower, the borrower shall have 1652
the right to cancel the insurance for a period of twenty-five days 1653
after the loan is made. If the borrower chooses to cancel the 1654
insurance, the borrower shall give the registrant written notice 1655
of this choice and shall return all of the policies or 1656
certificates of insurance or notices of proposed insurance to the 1657
registrant during such period, and the full premium or 1658
identifiable charge for the insurance shall be refunded to the 1659
borrower by the registrant. If the borrower requests, in the 1660
notice to cancel the insurance, that this refund be applied to 1661
reduce the balance of a precomputed loan, the registrant shall 1662
credit the amount of the refund plus the amount of interest 1663
applicable to the refund to the loan balance. 1664

If the registrant obtains the insurance at the request of the 1665
borrower, the registrant shall not charge or collect interest on 1666
any insured amount that remains unpaid after the insured 1667
borrower's date of death. 1668

(F) A registrant may require the borrower to provide 1669
insurance or a loss payable endorsement covering reasonable risks 1670
of loss, damage, and destruction of property used as security for 1671
the loan and with the consent of the borrower such insurance may 1672
cover property other than that which is security for the loan. The 1673
amount and term of required property insurance shall be reasonable 1674
in relation to the amount and term of the loan contract and the 1675
type and value of the security, and the insurance shall be 1676
procured in accordance with the insurance laws of this state. The 1677
purchase of this insurance through the registrant or an agent or 1678

broker designated by the registrant shall not be a condition
precedent to the granting of the loan. If the borrower purchases
the insurance from or through the registrant or from another
source, the premium may be included in the principal amount of the
loan.

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

(1) A registrant, if not prohibited by section 1343.011 of
the Revised Code, may charge and receive up to two points, and a
prepayment penalty not in excess of one per cent of the original
principal amount of the loan. Points may be paid by the borrower
at the time of the loan or may be included in the principal amount
of the loan. On a refinancing, a registrant may not charge under
division (G) (1) of this section either of the following:

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

(b) A prepayment penalty.

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

penalty under division (G) (2) of this section if any of the following applies:

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

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

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

(3) Division (G) of this section 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-7 note.

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

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

(b) With respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide, reasonable in amount, paid to third parties, and not for the

purpose of circumvention or evasion of this section: 1740

(i) Fees or premiums for title examination, abstract of 1741
title, title insurance, surveys, title endorsements, title 1742
binders, title commitments, home inspections, or pest inspections; 1743
settlement or closing costs paid to unaffiliated third parties; 1744
courier fees; and any federally mandated flood plain certification 1745
fee; 1746

(ii) If not paid to the registrant, an employee of the 1747
registrant, or a person ~~related to~~ affiliated with the registrant, 1748
fees for preparation of a mortgage, settlement statement, or other 1749
documents, fees for notarizing mortgages and other documents, 1750
appraisal fees, and fees for any federally mandated inspection of 1751
home improvement work financed by a second mortgage loan; 1752

(c) Fees for credit investigations not exceeding ten dollars. 1753

(2) Division (H)(1) of this section does not limit the rights 1754
of registrants to engage in other transactions with borrowers, 1755
provided the transactions are not a condition of the loan. 1756

(I) If the loan contract or security instrument contains 1757
covenants by the borrower to perform certain duties pertaining to 1758
insuring or preserving security and the registrant pursuant to the 1759
loan contract or security instrument pays for performance of the 1760
duties on behalf of the borrower, the registrant may add the 1761
amounts paid to the unpaid principal balance of the loan or 1762
collect them separately. A charge for interest may be made for 1763
sums advanced not exceeding the rate of interest permitted by 1764
division (A) of this section. Within a reasonable time after 1765
advancing a sum, the registrant shall notify the borrower in 1766
writing of the amount advanced, any interest charged with respect 1767
to the amount advanced, any revised payment schedule, and shall 1768
include a brief description of the reason for the advance. 1769

(J)(1) In addition to points authorized under division (G) of 1770

this section, a registrant may charge and receive the following: 1771

(a) With respect to ~~secured~~ loans secured by goods or real 1772
estate: if the principal amount of the loan is ~~less than~~ five 1773
hundred dollars or less, loan origination charges not exceeding 1774
fifteen dollars; if the principal amount of the loan is ~~at least~~ 1775
more than five hundred dollars but less than one thousand dollars, 1776
loan origination charges not exceeding thirty dollars; if the 1777
principal amount of the loan is at least one thousand dollars but 1778
less than two thousand dollars, loan origination charges not 1779
exceeding one hundred dollars; if the principal amount of the loan 1780
is at least two thousand dollars but less than five thousand 1781
dollars, loan origination charges not exceeding two hundred 1782
dollars; and if the principal amount of the loan is at least five 1783
thousand dollars, loan origination charges not exceeding the 1784
greater of two hundred fifty dollars or one per cent of the 1785
principal amount of the loan. 1786

(b) With respect to ~~unsecured~~ loans that are not secured by 1787
goods or real estate: if the principal amount of the loan is ~~less~~ 1788
~~than~~ five hundred dollars or less, loan origination charges not 1789
exceeding fifteen dollars; if the principal amount of the loan is 1790
~~at least~~ more than five hundred dollars but less than one thousand 1791
dollars, loan origination charges not exceeding thirty dollars; if 1792
the principal amount of the loan is at least one thousand dollars 1793
but less than five thousand dollars, loan origination charges not 1794
exceeding one hundred dollars; and if the principal amount of the 1795
loan is at least five thousand dollars, loan origination charges 1796
not exceeding the greater of two hundred fifty dollars or one per 1797
cent of the principal amount of the loan. 1798

(2) If a refinancing occurs within ninety days after the date 1799
of the refinanced loan, a registrant may not impose loan 1800
origination charges on the portion of the principal amount that is 1801

applied to the unpaid principal amount of the refinanced loan. 1802

(3) Loan origination charges may be paid by the borrower at 1803
the time of the loan or may be included in the principal amount of 1804
the loan. 1805

(K) A registrant may charge and receive check collection 1806
charges not greater than twenty dollars plus any amount passed on 1807
from other ~~financial~~ depository institutions for each check, 1808
negotiable order of withdrawal, share draft, or other negotiable 1809
instrument returned or dishonored for any reason. 1810

(L) If the loan contract so provides, a registrant may 1811
collect a default charge on any installment not paid in full 1812
within ten days after its due date. For this purpose, all 1813
installments are considered paid in the order in which they become 1814
due. Any amounts applied to an outstanding loan balance as a 1815
result of voluntary release of a security interest, sale of 1816
security on the loan, or cancellation of insurance shall be 1817
considered payments on the loan, unless the parties otherwise 1818
agree in writing at the time the amounts are applied. The amount 1819
of the default charge shall not exceed the greater of five per 1820
cent of the scheduled installment or fifteen dollars. 1821

Sec. 1321.59. (A) No registrant under sections 1321.51 to 1822
1321.60 of the Revised Code shall permit any borrower to be 1823
indebted for a loan made under sections 1321.51 to 1321.60 of the 1824
Revised Code at any time while the borrower is also indebted to an 1825
affiliate or agent of the registrant for a loan made under 1826
sections 1321.01 to 1321.19 of the Revised Code for the purpose or 1827
with the result of obtaining greater charges than otherwise would 1828
be permitted by sections 1321.51 to 1321.60 of the Revised Code. 1829

(B) No registrant shall induce or permit any person to become 1830
obligated to the registrant under sections 1321.51 to 1321.60 of 1831

the Revised Code, directly or contingently, or both, under more
 than one contract of loan at the same time for the purpose or with
 the result of obtaining greater charges than would otherwise be
 permitted by sections 1321.51 to 1321.60 of the Revised Code.

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

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

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

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

(G) No registrant, licensee, or person making loans without a

certificate of registration in violation of division (A) of 1863
section 1321.52 of the Revised Code, shall knowingly engage in 1864
conduct, in connection with the business of making or offering to 1865
make residential mortgage loans, that constitutes improper, 1866
fraudulent, or dishonest dealings. 1867

(H) No registrant, licensee, or applicant involved in the 1868
business of making or offering to make residential mortgage loans 1869
shall fail to notify the division of financial institutions within 1870
thirty days after knowing any of the following: 1871

(1) That the registrant, licensee, or applicant has been 1872
convicted of or pleaded guilty to a felony offense in a domestic, 1873
foreign, or military court; 1874

(2) That the registrant, licensee, or applicant has been 1875
convicted of or pleaded guilty to any criminal offense involving 1876
theft, receiving stolen property, embezzlement, forgery, fraud, 1877
passing bad checks, money laundering, breach of trust, dishonesty, 1878
or drug trafficking, or any criminal offense involving money or 1879
securities, in a domestic, foreign, or military court; 1880

(3) That the registrant, licensee, or applicant has had a 1882
mortgage lender registration or mortgage loan originator license, 1883
or comparable authority, revoked in any governmental jurisdiction. 1884

(I) No registrant or licensee shall knowingly make, propose, 1886
or solicit fraudulent, false, or misleading statements on any 1887
mortgage document or on any document related to a mortgage loan, 1888
including a mortgage application, real estate appraisal, or real 1889
estate settlement or closing document. For purposes of this 1890
division, "fraudulent, false, or misleading statements" does not 1891
include mathematical errors, inadvertent transposition of numbers, 1892
typographical errors, or any other bona fide error. 1893

(J) No registrant or licensee shall knowingly instruct, solicit, propose, or otherwise cause a borrower to sign in blank a loan related document in connection with a residential mortgage loan. 1894
1895
1896
1897

(K) No registrant or licensee shall knowingly compensate, instruct, induce, coerce, or intimidate, or attempt to compensate, instruct, induce, coerce, or intimidate, a person licensed or certified as an appraiser under Chapter 4763. of the Revised Code for the purpose of corrupting or improperly influencing the independent judgment of the person with respect to the value of the dwelling offered as security for repayment of a mortgage loan. 1898
1899
1900
1901
1902
1903
1904

(L) No registrant or licensee shall willfully retain original documents provided to the registrant or licensee by the borrower in connection with the residential mortgage loan application, including income tax returns, account statements, or other financial related documents. 1905
1906
1907
1908
1909

(M) No registrant or licensee shall, in connection with making residential mortgage loans, receive, directly or indirectly, a premium on the fees charged for services performed by a bona fide third party. 1910
1911
1912
1913

(N) No registrant or licensee shall, in connection with making residential mortgage loans, pay or receive, directly or indirectly, a referral fee or kickback of any kind to or from a bona fide third party or other party with a related interest in the transaction, including a home improvement builder, real estate developer, or real estate broker or agent, for the referral of business. Nothing in this division shall prevent remuneration to a registrant or licensee for the licensed sale of any insurance product that is permitted under section 1321.57 of the Revised Code, provided there is no additional fee or premium added to the cost for the insurance and paid directly or indirectly by the 1914
1915
1916
1917
1918
1919
1920
1921
1922
1923
1924

borrower. 1925

(O) No registrant, licensee, or person making loans without a certificate of registration in violation of division (A) of section 1321.52 of the Revised Code shall, in connection with making or offering to make residential mortgage loans, engage in any unfair, deceptive, or unconscionable act or practice prohibited under sections 1345.01 to 1345.13 of the Revised Code. 1926
1927
1928
1929
1930
1931

Sec. 1321.591. No registrant or licensee shall fail to follow the practices set forth in the federal "Fair Debt Collection Practices Act," 91 Stat. 874, 15 U.S.C. 1692, as amended, notwithstanding the fact that the registrant or licensee is seeking to collect upon the registrant's own debt. 1932
1933
1934
1935
1936

Sec. 1321.592. (A) In connection with providing a non-brokered loan secured by a lien on real property, a registrant or licensee shall, not earlier than three business days nor later than twenty-four hours before the loan is closed, deliver to the borrower a written disclosure that includes the following: 1937
1938
1939
1940
1941

(1) A statement indicating whether property taxes or any insurance will be escrowed; 1942
1943

(2) A description of what is covered by the regular monthly payment, including principal, interest, taxes, and insurance, as applicable. 1944
1945
1946

(B) If a residential mortgage loan applied for will exceed ninety per cent of the value of the real property, the registrant shall provide a statement to the borrower within three business days after taking the loan application, 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 1947
1948
1949
1950
1951
1952
1953

home, you might owe more money on the loan than you get from the sale." 1954
1955

(C) No registrant or licensee shall fail to comply with this section. 1956
1957

Sec. 1321.593. (A) A registrant, licensee, and any person required to be registered or licensed under sections 1321.51 to 1321.60 of the Revised Code shall, in connection with the business of making or offering to make residential mortgage loans, do all of the following: 1958
1959
1960
1961
1962

(1) Safeguard and account for any money handled for the borrower: 1963
1964

(2) Follow reasonable and lawful instructions from the borrower: 1965
1966

(3) Act with reasonable skill, care, and diligence; 1967

(4) Act in good faith and with fair dealing in any transaction, practice, or course of business in connection with making or originating any residential mortgage loan under sections 1321.51 to 1321.60 of the Revised Code. 1968
1969
1970
1971

(B) Division (A) of this section shall not apply to wholesale lenders. However, wholesale lender registrants are subject to all other requirements applicable to registrants. For purposes of this division, "wholesale lender" means a company that has been issued a certificate of registration and that enters into transactions with borrowers exclusively through unaffiliated third-party mortgage brokers or lenders. 1972
1973
1974
1975
1976
1977
1978

(C) The duties and standards of care created in this section cannot be waived or modified. 1979
1980

Sec. 1321.594. (A) In connection with making a non-brokered 1981

<u>residential mortgage, no registrant or licensee shall fail to do</u>	1982
<u>either of the following:</u>	1983
<u>(1) Timely inform the borrower of any material change in the</u>	1984
<u>terms of the residential mortgage loan. For purposes of division</u>	1985
<u>(A) (1) of this section, "material change" means the following:</u>	1986
<u>(a) A change in the type of residential mortgage loan being</u>	1987
<u>offered, such as a fixed or variable rate loan or a loan with a</u>	1988
<u>balloon payment;</u>	1989
<u>(b) A change in the term of the loan, as reflected in the</u>	1990
<u>number of monthly payments due before a final payment is scheduled</u>	1991
<u>to be made;</u>	1992
<u>(c) A change in the interest rate of more than 0.15%;</u>	1993
<u>(d) A change in the regular total monthly payment, including</u>	1994
<u>principal, interest, any required mortgage insurance, and any</u>	1995
<u>escrowed taxes or property insurance, of more than five per cent;</u>	1996
<u>(e) A change regarding whether the escrow of taxes or</u>	1997
<u>insurance will be required;</u>	1998
<u>(f) A change regarding whether private mortgage insurance</u>	1999
<u>will be required.</u>	2000
<u>(2) Timely inform the borrower if any fees payable by the</u>	2001
<u>borrower to the licensee, registrant, or lender increase by more</u>	2002
<u>than ten per cent or one hundred dollars, whichever is greater.</u>	2003
<u>(B) The disclosures required by this section shall be deemed</u>	2004
<u>timely if the registrant or licensee provides the borrower with</u>	2005
<u>the revised information not later than the time requirement</u>	2006
<u>imposed by 12 C.F.R. 226.19(a)(2) and (3), as those provisions of</u>	2007
<u>federal law exist on July 31, 2009.</u>	2008
<u>(C) If an increase in the total amount of the fee to be paid</u>	2009

by the borrower to the registrant or licensee is not disclosed in accordance with division (A)(2) of this section, the registrant or licensee shall refund to the borrower the amount by which the fee was increased. If the fee is financed into the loan, the registrant or licensee shall also refund to the borrower the interest that would accrue over the term of the loan on that excess amount.

2010
2011
2012
2013
2014
2015
2016

Sec. 1321.60. (A)(1) Advertising for loans subject to sections 1321.51 to 1321.60 of the Revised Code shall not be false, misleading, or deceptive.

2017
2018
2019

(2) False, misleading, or deceptive advertising includes, but is not limited to, the following:

2020
2021

(a) Placing, or causing to be placed, any advertisement indicating that special terms, reduced rates, guaranteed rates, particular rates, or any other special feature of mortgage loans is available unless the advertisement clearly states any limitations that apply:

2022
2023
2024
2025
2026

(b) Placing, or causing to be placed, any advertisement containing a rate or special fee offer that is not a bona fide available rate or fee.

2027
2028
2029

(B) In making any advertisement, a registrant shall comply with 12 C.F.R. 226.16, as amended.

2030
2031

Sec. 1321.99. (A) Whoever violates section 1321.02 of the Revised Code is guilty of a felony of the fifth degree.

2032
2033

(B) Whoever violates section 1321.13 of the Revised Code shall be fined not less than one hundred nor more than five hundred dollars or imprisoned not more than six months, or both.

2034
2035
2036

(C) Whoever violates section 1321.14 of the Revised Code

2037

shall be fined not less than fifty nor more than two hundred
dollars for a first offense; for a second offense such person
shall be fined not less than two hundred nor more than five
hundred dollars and imprisoned for not more than six months.

2038
2039
2040
2041

(D) Whoever willfully violates section 1321.57, 1321.58,
division (A), (B), (C), or (D) of section 1321.59, 1321.591, or
1321.60 of the Revised Code is guilty of a minor misdemeanor and
shall be fined not less than one nor more than five hundred
dollars.

2042
2043
2044
2045
2046

(E) Whoever violates section 1321.52 or division (I), (J),
(K), (L), or (M) of section 1321.59 of the Revised Code is guilty
of a felony of the fifth degree.

2047
2048
2049

(F) Whoever violates division (A) of section 1321.73 of the
Revised Code shall be fined not more than five hundred dollars or
imprisoned not more than six months, or both.

2050
2051
2052

(G) Whoever violates section 1321.41 of the Revised Code is
guilty of a misdemeanor of the first degree.

2053
2054

(H) Whoever violates division (N) of section 1321.59 of the
Revised Code is guilty of a felony of the fourth degree.

2055
2056

(I) The imposition of fines pursuant to this section does not
preclude the imposition of any administrative fines or civil
penalties authorized under section 1321.54 or any other section of
the Revised Code.

2057
2058
2059
2060

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

2061
2062

(A) "Buyer" means an individual who is solicited to purchase
or who purchases the services of a mortgage broker for purposes
~~other than~~ of obtaining a ~~business~~ residential mortgage loan as
~~described in division (B)(6) of section 1343.01 of the Revised~~

2063
2064
2065
2066

Code.

2067

(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.

2068

2069

2070

(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 ~~shareholder, member, or partner of a~~ registrant individual who acts as a loan ~~officer~~ originator or operations manager of ~~the~~ a registrant, but for whom the registrant is prevented by law from making income tax withholdings.

2071

2072

2073

2074

2075

2076

2077

2078

2079

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

2080

2081

2082

(E) (1) "Loan officer originator" means an employee individual who ~~originates mortgage loans in consideration of direct for~~ compensation or indirect gain, profit, fees, or charges. "Loan officer" also includes an ~~employee who solicits financial and mortgage information from the public for sale to another mortgage broker or in anticipation of compensation or gain, does any of the~~ following:

2083

2084

2085

2086

2087

2088

2089

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

2090

2091

(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:

2092

2093

2094

2095

(c) Offers or negotiates terms of a residential mortgage

2096

<u>loan;</u>	2097
<u>(d) Issues or offers to issue a commitment for a residential mortgage loan to a buyer.</u>	2098
<u>(2) "Loan originator" does not include any of the following:</u>	2099
<u>(a) An individual who performs purely administrative or clerical tasks on behalf of a loan originator;</u>	2100
<u>(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;</u>	2101
<u>(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;</u>	2102
<u>(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;</u>	2103
<u>(e) A mortgage loan originator licensed under sections 1321.51 to 1321.60 of the Revised Code, when acting solely under that authority;</u>	2104
<u>(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;</u>	2105
<u>(g) Any person engaged in the retail sale of manufactured</u>	2106
	2107
	2108
	2109
	2110
	2111
	2112
	2113
	2114
	2115
	2116
	2117
	2118
	2119
	2120
	2121
	2122
	2123
	2124
	2125

<u>homes, mobile homes, or industrialized units if, in connection</u>	2126
<u>with financing those retail sales, the person only assists the</u>	2127
<u>borrower by providing or transmitting the loan application and</u>	2128
<u>does not do any of the following:</u>	2129
<u>(i) Offer or negotiate the residential mortgage loan rates or</u>	2130
<u>terms:</u>	2131
<u>(ii) Provide any counseling with borrowers about residential</u>	2132
<u>mortgage loan rates or terms:</u>	2133
<u>(iii) Receive any payment or fee from any company or</u>	2134
<u>individual for assisting the borrower obtain or apply for</u>	2135
<u>financing to purchase the manufactured home, mobile home, or</u>	2136
<u>industrialized unit:</u>	2137
<u>(iv) Assist the borrower in completing a residential mortgage</u>	2138
<u>loan application.</u>	2139
<u>(h) An individual employed by a nonprofit organization that</u>	2140
<u>is recognized as tax exempt under 26 U.S.C. 501(c)(3) and whose</u>	2141
<u>primary activity is the construction, remodeling, or</u>	2142
<u>rehabilitation of homes for use by low income families, provided</u>	2143
<u>that the nonprofit organization makes no-profit mortgage loans or</u>	2144
<u>mortgage loans at zero per cent interest to low income families</u>	2145
<u>and no fees accrue directly to the nonprofit organization or</u>	2146
<u>individual employed by the nonprofit organization from those</u>	2147
<u>mortgage loans and that the United States department of housing</u>	2148
<u>and urban development does not deny this exemption.</u>	2149
(F) "Mortgage" means any indebtedness secured by a deed of	2150
trust, security deed, or other lien on real property.	2151
(G)(1) "Mortgage broker" means any of the following:	2152
(1) (a) A person that holds that person out as being able to	2153
assist a buyer in obtaining a mortgage and charges or receives	2154
from either the buyer or lender money or other valuable	2155

consideration readily convertible into money for providing this 2156
assistance; 2157

~~(2)~~(b) A person that solicits financial and mortgage 2158
information from the public, provides that information to a 2159
mortgage broker or a person that makes residential mortgage loans, 2160
and charges or receives from ~~the mortgage broker~~ either of them 2161
money or other valuable consideration readily convertible into 2162
money for providing the information; 2163

~~(3)~~(c) A person engaged in table-funding or warehouse-lending 2164
mortgage loans that are first lien residential mortgage loans. 2165

(2) "Mortgage broker" does not include any of the following: 2166

(a) A person that makes residential mortgage loans and 2167
receives a scheduled payment on each of those mortgage loans; 2168

(b) Any entity chartered and lawfully doing business under 2169
the authority of any law of this state, another state, or the 2170
United States as a bank, savings bank, trust company, savings and 2171
loan association, or credit union, or a subsidiary of any such 2172
entity, which subsidiary is regulated by a federal banking agency 2173
and is owned and controlled by a depository institution; 2174

(c) A consumer reporting agency that is in substantial 2175
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 2176
U.S.C.A. 1681a, as amended; 2177

(d) Any political subdivision, or any governmental or other 2178
public entity, corporation, instrumentality, or agency, in or of 2179
the United States or any state; 2180

(e) A college or university, or controlled entity of a 2181
college or university, as those terms are defined in section 2182
1713.05 of the Revised Code; 2183

(f) Any entity created solely for the purpose of securitizing 2184
loans secured by an interest in real estate, provided the entity 2185

does not service the loans. For purposes of division (G)(2)(f) of this section "securitizing" means the packaging and sale of mortgage loans as a unit for sale as investment securities, but only to the extent of those activities.

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

(i) Offer or negotiate the residential mortgage loan rates or terms:

(ii) Provide any counseling with borrowers about residential mortgage loan rates or terms:

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

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

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

(i) The person 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. Division (G)(2)(h)(i) of this section

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 2247
veterans affairs as a nonsupervised lender, an agent of a 2248
nonsupervised automatic lender, or an agent of a nonsupervised 2249
lender. 2250

(i) A nonprofit organization that is recognized as tax exempt 2251
under 26 U.S.C. 501(c) (3) and whose primary activity is the 2252
construction, remodeling, or rehabilitation of homes for use by 2253
low income families, provided that the nonprofit organization 2254
makes no-profit mortgage loans or mortgage loans at zero per cent 2255
interest to low income families and no fees accrue directly to the 2256
nonprofit organization from those mortgage loans and that the 2257
United States department of housing and urban development does not 2258
deny this exemption. 2259

(j) A credit union service organization, provided that the 2260
organization utilizes services provided by registered loan 2261
originators or that it holds a valid letter of exemption issued by 2262
the superintendent under section 1322.023 of the Revised Code and 2263
complies with that section. 2264

(H) "Operations manager" means the individual employee or 2265
owner responsible for the everyday operations, compliance 2266
 requirements, and management of a mortgage broker business. 2267

(I) "Originate Registered loan originator" means ~~to do any an~~ 2268
individual to whom both of the following apply: 2269

(1) ~~Negotiate or arrange, or offer to negotiate or arrange, a~~ 2270
~~mortgage loan between a person that makes or funds mortgage loans~~ 2271
~~and a buyer;~~ The individual is a loan originator and an employee 2272
of a depository institution, a subsidiary that is owned and 2273
controlled by a depository institution and regulated by a federal 2274
banking agency, or an institution regulated by the farm credit 2275
administration. 2276

- (2) ~~Issue a commitment for a mortgage loan to a buyer;~~ 2277
- ~~(3) Place, assist in placement, or find a mortgage loan for a~~ 2278
~~buyer~~ The individual is registered with, and maintains a unique 2279
identifier through, the nationwide mortgage licensing system and 2280
registry. 2281
- (J) "Registrant" means any person that has been issued a 2282
mortgage broker certificate of registration under sections 1322.01 2283
to 1322.12 of the Revised Code. 2284
- (K) "Superintendent of financial institutions" includes the 2285
deputy superintendent for consumer finance as provided in section 2286
1181.21 of the Revised Code. 2287
- (L) "Table-funding mortgage loan" means a residential 2288
mortgage loan transaction in which the residential mortgage loan 2289
is initially payable to the mortgage broker, the mortgage broker 2290
does not use the mortgage broker's own funds to fund the 2291
transaction, and, by the terms of the mortgage or other agreement, 2292
the mortgage is simultaneously assigned to another person. 2293
- (M) "Warehouse-lending mortgage loan" means a residential 2294
mortgage loan transaction in which the residential mortgage loan 2295
is initially payable to the mortgage broker, the mortgage broker 2296
uses the mortgage broker's own funds to fund the transaction, and 2297
the mortgage is sold or assigned before the mortgage broker 2298
receives a scheduled payment on the residential mortgage loan. 2299
- (N) "Administrative or clerical tasks" means the receipt, 2300
collection, and distribution of information common for the 2301
processing or underwriting of a loan in the mortgage industry, and 2302
communication with a consumer to obtain information necessary for 2303
the processing or underwriting of a residential mortgage loan. 2304
- (O) "Appraisal company" means a sole proprietorship, 2305
partnership, corporation, limited liability company, or any other 2306

business entity or association, that employs or retains the 2307
services of a person licensed or certified under Chapter 4763. of 2308
the Revised Code for purposes of performing residential real 2309
estate appraisals for mortgage loans. 2310

(P) "Depository institution" has the same meaning as in 2311
section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 2312
U.S.C. 1813, and includes any credit union. 2313

(O) "Federal banking agency" means the board of governors of 2314
the federal reserve system, the comptroller of the currency, the 2315
director of the office of thrift supervision, the national credit 2316
union administration, and the federal deposit insurance 2317
corporation. 2318

(R) "Immediate family" means an individual's spouse, child, 2319
stepchild, parent, stepparent, grandparent, grandchild, brother, 2320
sister, parent-in-law, brother-in-law, or sister-in-law. 2321

(S) "Individual" means a natural person. 2322

(T) "Loan processor or underwriter" means an individual who 2323
performs clerical or support duties at the direction of and 2324
subject to the supervision and instruction of a licensed loan 2325
originator or registered loan originator. For purposes of this 2326
division, "clerical or support duties" includes the following 2327
activities: 2328

(1) The receipt, collection, distribution, and analysis of 2329
information common for the processing or underwriting of a 2330
residential mortgage loan; 2331

(2) Communicating with a buyer to obtain the information 2332
necessary for the processing or underwriting of a loan, to the 2333
extent the communication does not include offering or negotiating 2334
loan rates or terms or counseling buyers about residential 2335
mortgage loan rates or terms. 2336

(U) "Nationwide mortgage licensing system and registry" means 2337
a mortgage licensing system developed and maintained by the 2338
conference of state bank supervisors and the American association 2339
of residential mortgage regulators, or their successor entities, 2340
for the licensing and registration of loan originators, or any 2341
system established by the secretary of housing and urban 2342
development pursuant to the "Secure and Fair Enforcement for 2343
Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101. 2344

(V) "Nontraditional mortgage product" means any mortgage 2345
product other than a thirty-year fixed rate mortgage. 2346

(W) "Real estate brokerage activity" means any activity that 2347
involves offering or providing real estate brokerage services to 2348
the public, including all of the following: 2349

(1) Acting as a real estate agent or real estate broker for a 2350
buyer, seller, lessor, or lessee of real property; 2351

(2) Bringing together parties interested in the sale, 2352
purchase, lease, rental, or exchange of real property, other than 2353
in connection with providing financing for any such transaction; 2354

(3) Negotiating, on behalf of any party, any portion of a 2355
contract relating to the sale, purchase, lease, rental, or 2356
exchange of real property, other than in connection with providing 2357
financing for any such transaction; 2358

(4) Engaging in any activity for which a person engaged in 2359
that activity is required to be registered or licensed as a real 2360
estate agent or real estate broker under any applicable law; 2361

(5) Offering to engage in any activity, or to act in any 2362
capacity, described in division (W) of this section. 2363

(X) "Residential mortgage loan" means any loan primarily for 2364
personal, family, or household use that is secured by a mortgage 2365
on a dwelling or on residential real estate upon which is 2366

constructed or intended to be constructed a dwelling. For purposes 2367
of this division, "dwelling" has the same meaning as in section 2368
103 of the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C 1602. 2369
2370

(Y) "State," in the context of referring to states in 2371
addition to Ohio, means any state of the United States, the 2372
district of Columbia, any territory of the United States, Puerto 2373
Rico, Guam, American Samoa, the trust territory of the Pacific 2374
islands, the virgin islands, and the northern Mariana islands; 2375

(Z) "Unique identifier" means a number or other identifier 2376
that permanently identifies a loan originator and is assigned by 2377
protocols established by the nationwide mortgage licensing system 2378
and registry or federal banking agencies to facilitate electronic 2379
tracking of loan originators and uniform identification of, and 2380
public access to, the employment history of and the publicly 2381
adjudicated disciplinary and enforcement actions against loan 2382
originators. 2383

Sec. 1322.02. (A) (1) No person, on the person's own behalf or 2384
on behalf of any other person, shall act as a mortgage broker 2385
without first having obtained a certificate of registration from 2386
the superintendent of financial institutions for every office to 2387
be maintained by the person for the transaction of business as a 2388
mortgage broker in this state. A registrant shall maintain an 2389
office location in this state for the transaction of business as a 2390
mortgage broker in this state. 2391

(2) No person shall act or hold that person's self out as a 2392
mortgage broker under the authority or name of a registrant or 2393
person exempt from sections 1322.01 to 1322.12 of the Revised Code 2394
without first having obtained a certificate of registration from 2395
the superintendent for every office to be maintained by the person 2396
for the transaction of business as a mortgage broker in this 2397

state.

2398

(B) ~~(1) No person, on the person's own behalf or on behalf of~~
~~any other person, individual shall act as a loan officer~~
~~originator~~ without first having obtained a license from the
 superintendent. A loan officer originator shall be employed by or
associated with a mortgage broker or any person or entity listed
in division (G) (2) of section 1322.01 of the Revised Code, but
shall not be employed by or associated with more than one mortgage
~~broker or person or entity at any one time.~~

2399

2400

2401

2402

2403

2404

2405

2406

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

2407

2408

2409

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

2410

2411

2412

2413

2414

~~(a) A bank, savings bank, savings and loan association,~~
~~credit union, or credit union service organization organized under~~
~~the laws of this state, another state, or the United States, or a~~
~~subsidiary or affiliate of a bank, savings bank, savings and loan~~
~~association, credit union, or credit union service organization.~~
~~As used in this division, "affiliate" means an entity that~~
~~controls, is controlled by, or is under common control with, a~~
~~bank, savings bank, savings and loan association, credit union, or~~
~~credit union service organization and that the board of governors~~
~~of the federal reserve system, the comptroller of the currency,~~
~~the office of thrift supervision, the federal deposit insurance~~
~~corporation, or the national credit union administration has the~~
~~authority to examine, supervise, and regulate including with~~
~~respect to the affiliate's compliance with applicable consumer~~

2415

2416

2417

2418

2419

2420

2421

2422

2423

2424

2425

2426

2427

2428

protection requirements. 2429

~~(b) A budget and debt counseling service, as defined in 2430
division (D) of section 2716.03 of the Revised Code, provided that 2431
the service is a nonprofit organization exempt from taxation under 2432
section 501(e)(3) of the "Internal Revenue Code of 1986," 100 2433
Stat. 2085, 26 U.S.C.A. 501, as amended, and that the service is 2434
in compliance with Chapter 4710. of the Revised Code; 2435~~

~~(c) A consumer reporting agency that is in substantial 2436
compliance with the "Fair Credit Reporting Act," 84 Stat. 1128, 15 2437
U.S.C.A. 1681a, as amended; 2438~~

~~(d) Any political subdivision, or any governmental or other 2439
public entity, corporation, or agency, in or of the United States 2440
or any state of the United States; 2441~~

~~(e) A college or university, or controlled entity of a 2442
college or university, as defined in section 1713.05 of the 2443
Revised Code; 2444~~

~~(f) A person registered under sections 1321.51 to 1321.60 of 2445
the Revised Code, provided that not more than five per cent of the 2446
person's mortgage loans constitute table funding mortgage loans or 2447
warehouse lending mortgage loans. Division (C)(1)(f) of this 2448
section does not include any person that is also registered or 2449
licensed under sections 1322.01 to 1322.12 of the Revised Code. 2450~~

~~(g) A mortgage banker. For purposes of division (C)(1)(g) of 2451
this section, "mortgage banker" means any person that makes, 2452
services, buys, or sells mortgage loans, that underwrites the 2453
loans, and that meets at least one of the following criteria: 2454~~

~~(i) The person has been directly approved by the United 2455
States department of housing and urban development as a 2456
nonsupervised mortgagee with participation in the direct 2457
endorsement program. Division (C)(1)(g)(i) of this section 2458~~

~~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 (C) (1) (g) (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 (C) (1) (g) (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 (C) (1) (g) (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 (C) (1) (g) (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 nonsupervised automatic lender, or an agent of a nonsupervised lender.~~

~~(h) A person created solely for the purpose of securitizing loans secured by an interest in real estate, provided the person does not service the loans. For purposes of division (C)(1)(h) of this section, "securitizing" means the packaging and sale of mortgage loans as a unit for sale as investment securities, but only to the extent of those activities. Each licensee shall register with, and maintain a valid unique identifier issued by the nationwide mortgage licensing system and registry.~~

~~(2) Any individual who is employed by a person exempt from sections 1322.01 to 1322.12 of the Revised Code is also exempt from those sections to the extent the individual is acting within the scope of the individual's employment and within the scope of the exempt person's charter, license, authority, approval, or certificate. No person shall use a licensee's unique identifier for any purpose other than as set forth in the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.~~

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

(1) The mortgage banker's business name and state of

<u>incorporation or business registration:</u>	2520
<u>(2) The names of the owners, officers, or partners having control of the business:</u>	2521
	2522
<u>(3) An attestation to all of the following:</u>	2523
<u>(a) That the mortgage banker and its owners, officers, or partners identified in division (A)(2) of this section have not had a mortgage banker license, mortgage broker certificate of registration, or loan originator license, or any comparable authority, revoked in any governmental jurisdiction:</u>	2524
	2525
	2526
	2527
	2528
<u>(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 to, any of the following in a domestic, foreign, or military court:</u>	2529
	2530
	2531
	2532
<u>(i) During the seven-year period immediately preceding the date of application for exemption, any felony or a misdemeanor involving theft:</u>	2533
	2534
	2535
<u>(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.</u>	2536
	2537
	2538
<u>(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.</u>	2539
	2540
	2541
	2542
	2543
<u>(4) The names of all loan originators or licensees under the mortgage banker's control and direction:</u>	2544
	2545
<u>(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:</u>	2546
	2547
	2548

(6) Any further reasonable information that the 2549
superintendent may require. 2550

(B) (1) If the superintendent determines that the mortgage 2551
banker honestly made the attestation required under division 2552
(A) (3) of this section and otherwise qualifies for exemption, the 2553
superintendent shall issue a letter of exemption. Additional 2554
certified copies of a letter of exemption shall be provided upon 2555
request and the payment of seventy-five dollars per copy. 2556

(2) If the superintendent determines that the mortgage banker 2557
does not qualify for exemption, the superintendent shall issue a 2558
notice of denial, and the mortgage banker may request a hearing in 2559
accordance with Chapter 119. of the Revised Code. 2560

(C) All of the following conditions apply to any mortgage 2561
banker holding a valid letter of exemption: 2562

(1) The mortgage banker shall be subject to examination in 2563
the same manner as a registrant with respect to the conduct of the 2564
mortgage banker's loan originators. In conducting any out-of-state 2565
examination, a mortgage banker shall be responsible for paying the 2566
costs of the division in the same manner as a registrant. 2567

(2) The mortgage banker shall have an affirmative duty to 2568
supervise the conduct of its loan originators, and to cooperate 2569
with investigations by the division with respect to that conduct, 2570
in the same manner as is required of registrants. 2571

(3) The mortgage banker shall keep and maintain records of 2572
all transactions relating to the conduct of its loan originators 2573
in the same manner as is required of registrants. 2574

(4) The mortgage banker may provide the surety bond for its 2575
licensees in the same manner as is permitted for registrants. 2576

(D) A letter of exemption expires annually on the 2577
thirty-first day of December and may be renewed on or before that 2578

date by submitting an application that meets the requirements of 2579
division (A) of this section and a nonrefundable renewal fee of 2580
three hundred fifty dollars for each location of an office to be 2581
maintained by the mortgage banker. 2582

(E) The superintendent may issue a notice to revoke or 2583
suspend a letter of exemption if the superintendent finds that the 2584
letter was obtained through a false or fraudulent representation 2585
of a material fact, or the omission of a material fact, required 2586
by law, or that a condition for exemption is no longer being met. 2587
Prior to issuing an order of revocation or suspension, the 2588
mortgage banker shall be given an opportunity for a hearing in 2589
accordance with Chapter 119. of the Revised Code. 2590

(F) All information obtained by the division pursuant to an 2591
examination or investigation under this section shall be subject 2592
to the confidentiality requirements set forth in section 1322.061 2593
of the Revised Code. 2594

(G) All money collected under this section shall be deposited 2595
into the state treasury to the credit of the consumer finance fund 2596
created in section 1321.21 of the Revised Code. 2597

(H) A mortgage banker that holds a valid letter of exemption, 2598
and any licensee employed by the mortgage banker, shall not be 2599
required to comply with section 1322.062 of the Revised Code with 2600
respect to any transaction covered under the authority of an 2601
approval described in division (G) (2) (h) of section 1322.01 of the 2602
Revised Code. Compliance shall be required, however, with respect 2603
to transactions not covered under the authority of an approval 2604
described in that division. 2605

Sec. 1322.023. (A) A credit union service organization 2606
seeking exemption from registration pursuant to division (G) (2) (j) 2607
of section 1322.01 of the Revised Code shall submit an application 2608

to the superintendent of financial institutions along with a 2609
nonrefundable fee of three hundred fifty dollars for each location 2610
of an office to be maintained by the organization. The application 2611
shall be in a form prescribed by the superintendent and shall 2612
include all of the following: 2613

(1) The organization's business name and state of 2614
incorporation: 2615

(2) The names of the owners, officers, or partners having 2616
control of the organization: 2617

(3) An attestation to all of the following: 2618

(a) That the organization and its owners, officers, or 2619
partners identified in division (A)(2) of this section have not 2620
had a mortgage broker certificate of registration or loan 2621
originator license, or any comparable authority, revoked in any 2622
governmental jurisdiction: 2623

(b) That the organization and its owners, officers, or 2624
partners identified in division (A)(2) of this section have not 2625
been convicted of, or pleaded guilty to, any of the following in a 2626
domestic, foreign, or military court: 2627

(i) During the seven-year period immediately preceding the 2628
date of application for exemption, any felony or a misdemeanor 2629
involving theft; 2630

(ii) At any time prior to the date the application for 2631
exemption is approved, a felony involving an act of fraud, 2632
dishonesty, a breach of trust, theft, or money laundering. 2633

(c) That, with respect to financing residential mortgage 2634
loans, the organization conducts business with residents of this 2635
state or secures its loans with property located in this state. 2636

(4) The names of all loan originators or licensees under the 2637

organization's control and direction; 2638

(5) An acknowledgment of understanding that the organization 2639
is subject to the regulatory authority of the division of 2640
financial institutions; 2641

(6) Any further information that the superintendent may 2642
require. 2643

(B) (1) If the superintendent determines that the credit union 2644
service organization honestly made the attestation required under 2645
division (A) (3) of this section and otherwise qualifies for 2646
exemption, the superintendent shall issue a letter of exemption. 2647
Additional certified copies of a letter of exemption shall be 2648
provided upon request and the payment of seventy-five dollars per 2649
copy. 2650

(2) If the superintendent determines that the organization 2651
does not qualify for exemption, the superintendent shall issue a 2652
notice of denial, and the organization may request a hearing in 2653
accordance with Chapter 119. of the Revised Code. 2654

(C) All of the following conditions apply to any credit union 2655
service organization holding a valid letter of exemption: 2656

(1) The organization shall be subject to examination in the 2657
same manner as a registrant with respect to the conduct of the 2658
organization's loan originators. In conducting any out-of-state 2659
examination, the organization shall be responsible for paying the 2660
costs of the division in the same manner as a registrant. 2661

(2) The organization shall have an affirmative duty to 2662
supervise the conduct of its loan originators, and to cooperate 2663
with investigations by the division with respect to that conduct, 2664
in the same manner as is required of registrants. 2665

(3) The organization shall keep and maintain records of all 2666
transactions relating to the conduct of its loan originators in 2667

the same manner as is required of registrants.

2668

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

2669

2670

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

2671

2672

2673

2674

2675

2676

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

2677

2678

2679

2680

2681

2682

2683

2684

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

2685

2686

2687

2688

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

2689

2690

2691

Sec. 1322.024. The superintendent of financial institutions may, by rule, expand the definition of loan originator or mortgage broker in section 1322.01 of the Revised Code by adding individuals, persons, or entities, or may exempt additional individuals, persons, or entities from those definitions, if the superintendent finds that the addition or exemption is consistent

2692

2693

2694

2695

2696

2697

with the purposes fairly intended by the policy and provisions of 2698
sections 1322.01 to 1322.12 of the Revised Code and the "Secure 2699
and Fair Enforcement for Mortgage Licensing Act of 2008," 122 2700
Stat. 2810, 12 U.S.C. 5101. 2701

Rules authorized by this section shall be adopted in 2702
accordance with Chapter 119. of the Revised Code. 2703

Sec. 1322.025. (A) Notwithstanding any provision of sections 2704
1322.01 to 1322.12 of the Revised Code, or any rule adopted 2705
thereunder, if the "Secure and Fair Enforcement for Mortgage 2706
Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, as 2707
amended, is modified after the effective date of this section, or 2708
any regulation, statement, or position is adopted under that act, 2709
and the item modified or adopted affects any matter within the 2710
scope of sections 1322.01 to 1322.12 of the Revised Code, the 2711
superintendent of financial institutions may by rule adopt a 2712
similar provision. 2713

(B) The superintendent shall adopt the rules authorized by 2714
this section in accordance with section 111.15 of the Revised 2715
Code. Chapter 119. of the Revised Code does not apply to rules 2716
adopted under the authority of this section. 2717

(C) A rule adopted by the superintendent under the authority 2718
of this section is effective on the later of the following dates: 2719

(1) The date the superintendent issues the rule; 2720

(2) The date the regulation, rule, interpretation, procedure, 2721
or guideline the superintendent's rule is based on becomes 2722
effective. 2723

(D) The superintendent may, upon thirty days' written notice, 2724
revoke any rule adopted under the authority of this section. A 2725
rule adopted under the authority of this section, and not revoked 2726

by the superintendent, lapses and has no further force and effect 2727
eighteen months after the rule's effective date. 2728

Sec. 1322.03. (A) An application for a certificate of 2729
 registration as a mortgage broker shall be in writing, under oath, 2730
 and in the form prescribed by the superintendent of financial 2731
 institutions. The application shall be accompanied by a 2732
 nonrefundable application fee of ~~three~~ five hundred ~~fifty~~ dollars 2733
 for each location of an office to be maintained by the applicant 2734
 in accordance with division (A) of section 1322.02 of the Revised 2735
 Code; ~~however, an applicant that is registered under sections~~ 2736
~~1321.51 to 1321.60 of the Revised Code shall not be required to~~ 2737
~~pay an application fee and any additional fee required by the~~ 2738
nationwide mortgage licensing system and registry. The application 2739
 shall provide all of the following: 2740

(1) The location or locations where the business is to be 2741
 transacted and whether any location is a residence. If any 2742
 location where the business is to be transacted is a residence, 2743
 the superintendent may require that the application ~~shall~~ be 2744
 accompanied by a ~~certified~~ copy of a zoning permit authorizing the 2745
 use of the residence for commercial purposes, or ~~shall be~~ 2746
~~accompanied~~ by a written opinion or other document issued by the 2747
 county or political subdivision where the residence is located 2748
 certifying that the use of the residence to transact business as a 2749
 mortgage broker is not prohibited by the county or political 2750
 subdivision. ~~The application also shall be accompanied by a~~ 2751
~~photograph of each location at which the business will be~~ 2752
~~transacted.~~ 2753

(2) (a) In the case of a sole proprietor, the name and address 2754
 of the sole proprietor; 2755

(b) In the case of a partnership, the name and address of 2756

each partner;

2757

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

2758

2759

(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.

2760

2761

2762

~~(3) If the applicant is a partnership, corporation, limited liability company, or any other business entity or association,~~ the 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.

2763

2764

2765

2766

2767

2768

2769

(4) Evidence that the ~~sole proprietor or the person~~ designated on the application pursuant to division (A)(3) of this section, ~~as applicable,~~ possesses at least three years of experience in the residential mortgage and lending field, which experience may include employment with or as a mortgage broker or with a ~~financial~~ 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;

2770

2771

2772

2773

2774

2775

2776

2777

2778

2779

2780

(5) ~~On or after January 1, 2007, evidence~~ Evidence that the ~~sole proprietor or the person~~ designated on the application pursuant to division (A)(3) of this section has successfully completed ~~either of the following:~~

2781

2782

2783

2784

~~(a) At least twenty four hours of live classroom~~ pre-licensing instruction in a course or program of study approved

2785

2786

by the superintendent that consists of at least all of the 2787
following: 2788

(i) Four hours of instruction concerning state and federal 2789
mortgage lending laws, which shall include no less than two hours 2790
on this chapter; 2791

(ii) Four hours of instruction concerning the Ohio consumer 2792
sales practices act, Chapter 1345. of the Revised Code, as it 2793
applies to registrants and licensees; 2794

(iii) Four hours of instruction concerning the loan 2795
application process; 2796

(iv) Two hours of instruction concerning the underwriting 2797
process; 2798

(v) Two hours of instruction concerning the secondary market 2799
for mortgage loans; 2800

(vi) Four hours of instruction concerning the loan closing 2801
process; 2802

(vii) Two hours of instruction covering basic mortgage 2803
financing concepts and terms; 2804

(viii) Two hours of instruction concerning the ethical 2805
responsibilities of a registrant, including with respect to 2806
confidentiality, consumer counseling, and the duties and standards 2807
of care created in section 1322.081 of the Revised Code. 2808

(b) Other post secondary education related specifically to 2809
the business of mortgage loans that the superintendent determines 2810
meets the requirements of division (A)(5)(a) of this section. 2811

Division (A)(5) of this section does not apply to any 2812
applicant who has an application on file with the division of 2813
financial institutions prior to January 1, 2007. 2814

The evidence submitted by the applicant pursuant to division 2815

~~(A) (5) of this section may be in the form of transcripts or a statement indicating that the applicant has, and will maintain, transcripts at the applicant's place of business for a period of five years for inspection by the superintendent at the superintendent's request requirements set forth in section 1322.031 of the Revised Code.~~

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

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

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

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

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

~~(11)~~(9) Any further information that the superintendent

requires. 2846

(B) Upon the filing of the application and payment of the 2847
nonrefundable application fee and any fee required by the 2848
nationwide mortgage licensing system and registry, the 2849
 superintendent of financial institutions shall investigate the 2850
 applicant, and any individual whose identity is required to be 2851
disclosed in the application, as set forth in division (B) of this 2852
 section. 2853

(1) The (a) Notwithstanding division (K) of section 121.08 of 2854
the Revised Code, the superintendent shall obtain a criminal 2855
history records check and, as part of that records check, request 2856
that criminal record information from the federal bureau of 2857
investigation be obtained. To fulfill this requirement, the 2858
 superintendent shall ~~request~~ do either of the following: 2859

(i) Request the superintendent of the bureau of criminal 2860
 identification and investigation, or a vendor approved by the 2861
 bureau, to conduct a criminal records check based on the 2862
 applicant's fingerprints or, if the fingerprints are unreadable, 2863
based on the applicant's social security number, in accordance 2864
 with division (A) ~~(11)~~ (12) of section 109.572 of the Revised Code. 2865
~~Notwithstanding division (K) of section 121.08 of the Revised~~ 2866
~~Code, the superintendent of financial institutions shall;~~ 2867

(ii) Authorize the nationwide mortgage licensing system and 2868
registry to request that criminal record information from the 2869
federal bureau of investigation be obtained as part of the a 2870
 criminal ~~records~~ history background check. ~~Any~~ 2871

(b) Any fee required under division (C) (3) of section 109.572 2872
 of the Revised Code or by the nationwide mortgage licensing system 2873
and registry shall be paid by the applicant. 2874

(2) The superintendent shall conduct a civil records check. 2875

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

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

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

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

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

(G) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and

maintain records and process transaction fees or other fees 2907
related to mortgage broker certificates of registration or the 2908
persons associated with a mortgage broker. 2909

Sec. 1322.031. (A) An application for a license as a loan 2910
~~officer~~ originator shall be in writing, under oath, and in the 2911
 form prescribed by the superintendent of financial institutions. 2912
 The application shall be accompanied by a nonrefundable 2913
 application fee of one hundred fifty dollars and ~~shall provide all~~ 2914
~~of the following:~~ 2915

~~(1) The name and address of the applicant;~~ 2916

~~(2) A statement as to whether the applicant has been~~ 2917
~~convicted of or pleaded guilty to any criminal offense involving~~ 2918
~~theft, receiving stolen property, embezzlement, forgery, fraud,~~ 2919
~~passing bad checks, money laundering, or drug trafficking, or any~~ 2920
~~criminal offense involving money or securities;~~ 2921

~~(3) A statement as to whether the applicant has been subject~~ 2922
~~to an adverse judgment for conversion, embezzlement,~~ 2923
~~misappropriation of funds, fraud, misfeasance or malfeasance, or~~ 2924
~~breach of fiduciary duty;~~ 2925

~~(4) For loan officer applications submitted on or after~~ 2926
~~January 1, 2007, proof any additional fee required by the~~ 2927
~~nationwide mortgage licensing system and registry.~~ 2928

(B)(1) The application shall provide evidence, acceptable to 2929
the superintendent, that the applicant has successfully completed 2930
at least twenty-four hours of pre-licensing instruction consisting 2931
of all of the following: 2932

(a) Twenty hours of instruction in a course or program of 2933
study reviewed and approved by the nationwide mortgage licensing 2934
system and registry; 2935

<u>(b) Four hours of instruction in a course or program of study</u>	2936
<u>reviewed and approved by the superintendent concerning state</u>	2937
<u>lending laws and the Ohio consumer sales practices act, Chapter</u>	2938
<u>1345. of the Revised Code, as it applies to registrants and</u>	2939
<u>licensees.</u>	2940
<u>(2) Notwithstanding division (B)(1) of this section, until</u>	2941
<u>the nationwide mortgage licensing system and registry implements a</u>	2942
<u>review and approval program, the application shall provide</u>	2943
<u>evidence</u> , as determined by the superintendent, that the applicant	2944
has successfully completed at least twenty-four hours of live	2945
classroom instruction in a course or program of study approved by	2946
the superintendent that consists of at least all of the following:	2947
	2948
(a) Four hours of instruction concerning state and federal	2949
mortgage lending laws, which shall include no less than two hours	2950
on this chapter;	2951
(b) Four hours of instruction concerning the Ohio consumer	2952
sales practices act, Chapter 1345. of the Revised Code, as it	2953
applies to registrants and licensees;	2954
(c) Four hours of instruction concerning the loan application	2955
process;	2956
(d) Two hours of instruction concerning the underwriting	2957
process;	2958
(e) Two hours of instruction concerning the secondary market	2959
for mortgage loans;	2960
(f) Four hours of instruction concerning the loan closing	2961
process;	2962
(g) Two hours of instruction covering basic mortgage	2963
financing concepts and terms;	2964

(h) Two hours of instruction concerning the ethical responsibilities of a registrant and a licensee, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code. 2965
2966
2967
2968
2969

~~Division (A) (4) of this section does not apply to any applicant who has an application on file with the division of financial institutions prior to January 1, 2007.~~ 2970
2971
2972

~~The proof submitted by the applicant pursuant to division (A) (4) of this section may be in the form of transcripts or a statement indicating that the applicant has, and will maintain, transcripts at the applicant's place of business for a period of five years for inspection by the superintendent at the superintendent's request.~~ 2973
2974
2975
2976
2977
2978

(5)(3) For purposes of division (B) (1) (a) of this section, the review and approval of a course or program of study includes the review and approval of the provider of the course or program of study. 2979
2980
2981
2982

(4) If an applicant held a valid loan originator license issued by this state at any time during the immediately preceding five-year period, the applicant shall not be required to complete any additional pre-licensing instruction. For this purpose, any time during which the individual is a registered loan originator shall not be taken into account. 2983
2984
2985
2986
2987
2988

(5) A person having successfully completed the pre-licensing education requirement reviewed and approved by the nationwide mortgage licensing system and registry for any state within the previous five years shall be granted credit toward completion of the pre-licensing education requirement of this state. 2989
2990
2991
2992
2993

(C) In addition to the information required under division 2994

(B) of this section, the application shall provide both of the 2995
following: 2996

(1) Evidence that the applicant passed a written test that 2997
meets the requirements described in division (B) of section 2998
1322.051 of the Revised Code; 2999

(2) Any further information that the superintendent requires. 3000

~~(B)(D)~~ Upon the filing of the application and payment of the 3001
 application fee and any fee required by the nationwide mortgage 3002
licensing system and registry, the superintendent of financial 3003
 institutions shall investigate the applicant as set forth in 3004
 division ~~(B)(D)~~ of this section. 3005

(1) The (a) Notwithstanding division (K) of section 121.08 of 3006
the Revised Code, the superintendent shall obtain a criminal 3007
history records check and, as part of the records check, request 3008
that criminal record information from the federal bureau of 3009
investigation be obtained. To fulfill this requirement, the 3010
superintendent shall ~~request~~ do either of the following: 3011

(i) Request the superintendent of the bureau of criminal 3012
 identification and investigation, or a vendor approved by the 3013
 bureau, to conduct a criminal records check based on the 3014
 applicant's fingerprints or, if the fingerprints are unreadable, 3015
based on the applicant's social security number, in accordance 3016
 with division (A) ~~(11)(12)~~ of section 109.572 of the Revised Code- 3017
~~Notwithstanding division (K) of section 121.08 of the Revised~~ 3018
~~Code, the superintendent of financial institutions shall;~~ 3019

(ii) Authorize the nationwide mortgage licensing system and 3020
registry to request that criminal record information from the 3021
federal bureau of investigation be obtained as part of the a 3022
criminal ~~records~~ history background check. Any 3023

(b) Any fee required under division (C) (3) of section 109.572 3024

of the Revised Code or by the nationwide mortgage licensing system 3025
and registry shall be paid by the applicant. 3026

(2) The superintendent shall conduct a civil records check. 3027

(3) If, in order to issue a license to an applicant, 3028
 additional investigation by the superintendent outside this state 3029
 is necessary, the superintendent may require the applicant to 3030
 advance sufficient funds to pay the actual expenses of the 3031
 investigation, if it appears that these expenses will exceed one 3032
 hundred fifty dollars. The superintendent shall provide the 3033
 applicant with an itemized statement of the actual expenses that 3034
 the applicant is required to pay. 3035

~~(C)~~(E) (1) In connection with applying for a loan originator 3036
license, the applicant shall furnish to the nationwide mortgage 3037
licensing system and registry the following information concerning 3038
the applicant's identity: 3039

(a) The applicant's fingerprints for submission to the 3040
federal bureau of investigation, and any other governmental agency 3041
or entity authorized to receive such information, for purposes of 3042
a state, national, and international criminal history background 3043
check; 3044

(b) Personal history and experience in a form prescribed by 3045
the nationwide mortgage licensing system and registry, along with 3046
authorization for the superintendent and the nationwide mortgage 3047
licensing system and registry to obtain the following: 3048

(i) An independent credit report from a consumer reporting 3049
agency; 3050

(ii) Information related to any administrative, civil, or 3051
criminal findings by any governmental jurisdiction. 3052

(2) In order to effectuate the purposes of divisions 3053
(E) (1) (a) and (E) (1) (b) (ii) of this section, the superintendent 3054

may use the conference of state bank supervisors, or a wholly 3055
owned subsidiary, as a channeling agent for requesting information 3056
from and distributing information to the United States department 3057
of justice or any other governmental agency. The superintendent 3058
may also use the nationwide mortgage licensing system and registry 3059
as a channeling agent for requesting information from and 3060
distributing information to any source related to matters subject 3061
to those divisions of this section. 3062

(F) The superintendent shall pay all funds advanced and 3063
 application and renewal fees and penalties the superintendent 3064
 receives pursuant to this section and section 1322.041 of the 3065
 Revised Code to the treasurer of state to the credit of the 3066
 consumer finance fund created in section 1321.21 of the Revised 3067
 Code. 3068

~~(D)~~(G) If an application for a loan originator license does 3069
 not contain all of the information required under ~~division (A)~~ of 3070
 this section, and if that information is not submitted to the 3071
 superintendent within ninety days after the superintendent 3072
 requests the information in writing, the superintendent may 3073
 consider the application withdrawn. 3074

~~(E)~~(H) (1) The business of a loan ~~officer~~ originator shall 3075
 principally be transacted at an office of the ~~employing~~ mortgage 3076
 broker with whom the licensee is employed or associated, which 3077
 office is registered in accordance with division (A) of section 3078
 1322.02 of the Revised Code. Each original loan originator license 3079
 shall be deposited with and maintained by the ~~employing~~ mortgage 3080
 broker at the mortgage broker's main office. A copy of the license 3081
 shall be maintained and displayed at the office where the loan 3082
~~officer~~ originator principally transacts business. 3083

(2) If a loan ~~officer's~~ originator's employment or 3084
association is terminated for any reason, the mortgage broker 3085

shall return the original loan originator license to the 3086
 superintendent within five business days after the termination. 3087
 The licensee may request the transfer of the license to another 3088
 mortgage broker by submitting a ~~relocation~~ transfer application, 3089
 along with a fifteen dollar fee and any fee required by the 3090
national mortgage licensing system and registry, to the 3091
 superintendent or may request the superintendent in writing to 3092
 hold the license in escrow ~~for a period not to exceed one year.~~ 3093
 Any licensee whose license is held in escrow shall cease activity 3094
 as a loan ~~officer~~ originator. A licensee whose license is held in 3095
escrow shall be required to apply for renewal annually and to 3096
comply with the annual continuing education requirement. 3097

(3) A mortgage broker may employ or be associated with a loan 3098
officer originator on a temporary basis pending the transfer of 3099
 the loan ~~officer's~~ originator's license to the mortgage broker, if 3100
 the mortgage broker receives written confirmation from the 3101
 superintendent that the loan ~~officer~~ originator is licensed under 3102
 sections 1322.01 to 1322.12 of the Revised Code. 3103

~~(F)~~ (4) Notwithstanding divisions (H) (1) to (3) of this 3104
section, if a licensee is employed by or associated with a person 3105
or entity listed in division (G) (2) of section 1322.01 of the 3106
Revised Code, all of the following apply: 3107

(a) The licensee shall maintain and display the original loan 3108
originator license at the office where the licensee principally 3109
transacts business; 3110

(b) If the loan originator's employment or association is 3111
terminated, the loan originator shall return the original loan 3112
originator license to the superintendent within five business days 3113
after termination. The licensee may request the transfer of the 3114
license to a mortgage broker or another person or entity listed in 3115
division (G) (2) of section 1322.01 of the Revised Code by 3116

submitting a transfer application, along with a fifteen dollar fee 3117
and any fee required by the national mortgage licensing system and 3118
registry, to the superintendent or may request the superintendent 3119
in writing to hold the license in escrow. A licensee whose license 3120
is held in escrow shall cease activity as a loan originator. A 3121
licensee whose license is held in escrow shall be required to 3122
apply for renewal annually and to comply with the annual 3123
continuing education requirement. 3124

(c) The licensee may seek to be employed or associated with a 3125
mortgage broker or person or entity listed in division (G)(2) of 3126
section 1322.01 of the Revised Code if the mortgage broker or 3127
person or entity receives written confirmation from the 3128
superintendent that the loan originator is licensed under sections 3129
1322.01 to 1322.12 of the Revised Code. 3130

(I) The superintendent may establish relationships or enter 3131
into contracts with the nationwide mortgage licensing system and 3132
registry, or any entities designated by it, to collect and 3133
maintain records and process transaction fees or other fees 3134
related to loan originator licenses or the persons associated with 3135
a licensee. 3136

(J) A loan originator license, or the authority granted under 3137
that license, is not assignable and cannot be franchised by 3138
contract or any other means. 3139

Sec. 1322.04. (A) Upon the conclusion of the investigation 3140
required under division (B) of section 1322.03 of the Revised 3141
Code, the superintendent of financial institutions shall issue a 3142
certificate of registration to the applicant if the superintendent 3143
finds that the following conditions are met: 3144

(1) ~~Except as otherwise provided in division (A) of section~~ 3145
1322.03 of the Revised Code, the The application is accompanied by 3146

the application fee and any fee required by the nationwide 3147
mortgage licensing system and registry. ~~if~~ 3148

(a) If a check or other draft instrument is returned to the 3149
superintendent for insufficient funds, the superintendent shall 3150
notify the applicant by certified mail, return receipt requested, 3151
that the application will be withdrawn unless the applicant, 3152
within thirty days after receipt of the notice, submits the 3153
application fee and a one-hundred-dollar penalty to the 3154
superintendent. If the applicant does not submit the application 3155
fee and penalty within that time period, or if any check or other 3156
draft instrument used to pay the fee or penalty is returned to the 3157
superintendent for insufficient funds, the application shall be 3158
withdrawn. 3159

(b) If a check or other draft instrument is returned to the 3160
superintendent for insufficient funds after the certificate of 3161
registration has been issued, the superintendent shall notify the 3162
registrant by certified mail, return receipt requested, that the 3163
certificate of registration issued in reliance on the check or 3164
other draft instrument will be canceled unless the registrant, 3165
within thirty days after receipt of the notice, submits the 3166
application fee and a one-hundred-dollar penalty to the 3167
superintendent. If the registrant does not submit the application 3168
fee and penalty within that time period, or if any check or other 3169
draft instrument used to pay the fee or penalty is returned to the 3170
superintendent for insufficient funds, the certificate of 3171
registration shall be canceled immediately without a hearing, and 3172
the registrant shall cease activity as a mortgage broker. 3173

(2) If the application is for a location that is a residence, 3174
~~that the applicant has obtained a valid zoning permit authorizing~~ 3175
~~the use of the residence for commercial purposes, or has obtained~~ 3176
~~a valid written opinion or other document issued by the county or~~ 3177

~~political subdivision where the residence is located certifying~~ 3178
~~evidence~~ that the use of the residence to transact business as a 3179
mortgage broker is not prohibited ~~by the county or political~~ 3180
~~subdivision. The application also is accompanied by a photograph~~ 3181
~~of each location at which the mortgage broker's business will be~~ 3182
~~transacted.~~ 3183

(3) The ~~sole proprietor or the person~~ designated on the 3184
application pursuant to division (A) (3) of section 1322.03 of the 3185
Revised Code, ~~as applicable,~~ meets the experience requirements 3186
provided in division (A) (4) of section 1322.03 of the Revised Code 3187
and the education requirements set forth in division (A) (5) of 3188
section 1322.03 of the Revised Code. 3189

(4) The applicant maintains all licenses necessary filings 3190
and registrations approvals required by the secretary of state. 3191

(5) The applicant complies with the surety bond requirements 3192
of section 1322.05 of the Revised Code. 3193

(6) The applicant complies with sections 1322.01 to 1322.12 3194
of the Revised Code and the rules adopted thereunder. 3195

(7) Neither the applicant nor any ~~shareholder, member,~~ 3196
~~partner, operations manager, or employee of the applicant person~~ 3197
whose identity is required to be disclosed on an application for a 3198
mortgage broker certificate of registration has had a mortgage 3199
broker certificate of registration or loan originator license, or 3200
any comparable authority, revoked in any governmental jurisdiction 3201
or has pleaded guilty to or been convicted of any criminal offense 3202
~~described in division (A) (8) of section 1322.03 of the Revised~~ 3203
~~Code or any violation of an existing or former law of this state,~~ 3204
~~any other state, or the United States that substantially is~~ 3205
~~equivalent to a criminal offense described in that division.~~ 3206
~~However, if the applicant or any of those other persons has~~ 3207
~~pleaded guilty to or been convicted of any such offense other than~~ 3208

~~theft, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the conviction show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will commit such an offense again of the following in a domestic, foreign, or military court:~~

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

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

~~(8) Neither the applicant nor any shareholder, member, partner, operations manager, or employee of the applicant has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or, if the applicant or any of those other persons has been subject to such a judgment Based on the totality of the circumstances and information submitted in the application, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the judgment show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will be subject to such a judgment again business repute, appears qualified to act as a mortgage broker, has fully complied with sections 1322.01 to 1322.12 of the Revised Code and the rules adopted thereunder, and meets all of~~

the conditions for issuing a mortgage broker certificate of registration. 3240
3241

(9) The applicant's operations manager successfully completed the examination required under division (A) of section 1322.051 of the Revised Code. 3242
3243
3244

(10) The applicant's financial responsibility, experience, character, and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1322.01 to 1322.12 of the Revised Code and the rules adopted thereunder. The superintendent shall not use a credit score as the sole basis for registration denial. 3245
3246
3247
3248
3249
3250
3251

(B) For purposes of determining whether an applicant that is a partnership, corporation, or other business entity or association has met the conditions set forth in divisions (A) (7), (A) (8), and (A) (10) of this section, the superintendent shall determine which partners, shareholders, or persons named in the application pursuant to division (A) (2) of section 1322.03 of the Revised Code must meet the conditions set forth in divisions (A) (7), (A) (8), and (A) (10) of this section. This determination shall be based on the extent and nature of the partner's, shareholder's, or person's ownership interest in the partnership, corporation, or other business entity or association that is the applicant and on whether the person is in a position to direct, control, or adversely influence the operations of the applicant. 3252
3253
3254
3255
3256
3257
3258
3259
3260
3261
3262
3263
3264

~~(B)~~ (C) The certificate of registration issued pursuant to division (A) of this section may be renewed annually on or before the ~~thirtieth~~ thirty-first day of ~~April~~ December if the superintendent finds that all of the following conditions are met: 3265
3266
3267
3268
3269

(1) The renewal application is accompanied by a nonrefundable 3270

renewal fee of ~~three~~ five hundred ~~fifty~~ dollars for each location 3271
of an office to be maintained by the applicant in accordance with 3272
division (A) of section 1322.02 of the Revised Code, ~~however, an~~ 3273
~~applicant that is registered under sections 1321.51 to 1321.60 of~~ 3274
~~the Revised Code shall not be required to pay a renewal fee and~~ 3275
any fee required by the nationwide mortgage licensing system and 3276
registry. If a check or other draft instrument is returned to the 3277
superintendent for insufficient funds, the superintendent shall 3278
notify the registrant by certified mail, return receipt requested, 3279
that the certificate of registration renewed in reliance on the 3280
check or other draft instrument will be canceled unless the 3281
registrant, within thirty days after receipt of the notice, 3282
submits the renewal fee and a one-hundred-dollar penalty to the 3283
superintendent. If the registrant does not submit the renewal fee 3284
and penalty within that time period, or if any check or other 3285
draft instrument used to pay the fee or penalty is returned to the 3286
superintendent for insufficient funds, the certificate of 3287
registration shall be canceled immediately without a hearing and 3288
the registrant shall cease activity as a mortgage broker. 3289

(2) ~~On and after January 1, 2003, the~~ The operations manager 3290
designated under division (A) (3) of section 1322.03 of the Revised 3291
Code has completed, ~~during the immediately preceding calendar~~ 3292
~~year,~~ at least ~~six~~ eight hours of continuing education as required 3293
under section 1322.052 of the Revised Code. 3294

(3) The applicant meets the conditions set forth in divisions 3295
(A) (2) to (10) of this section. 3296

(4) The applicant's mortgage broker certificate of 3297
registration is not subject to an order of suspension or 3298
~~revocation~~ an unpaid and past due fine imposed by the 3299
superintendent. 3300

~~(C)~~ (D) (1) Subject to division ~~(C)~~ (D) (2) of this section, if a 3301

renewal fee or additional fee required by the nationwide mortgage 3302
licensing system and registry is received by the superintendent 3303
 after the ~~thirtieth~~ thirty-first day of ~~April~~ December, the 3304
mortgage broker certificate of registration shall not be 3305
 considered renewed, and the applicant shall cease activity as a 3306
 mortgage broker ~~and apply for a certificate of registration as a~~ 3307
~~mortgage broker.~~ 3308

(2) Division ~~(C)~~ (D) (1) of this section shall not apply if the 3309
 applicant, no later than the thirty-first day of ~~May~~ January, 3310
 submits the renewal fee or additional fee and a one-hundred-dollar 3311
 penalty to the superintendent. 3312

~~(D)~~ (E) If the person designated as the operations manager 3313
 pursuant to division (A) (3) of section 1322.03 of the Revised Code 3314
 is no longer the operations manager, the registrant shall do all 3315
 of the following: 3316

(1) ~~Designate~~ Within ninety days after the departure of the 3317
designated operations manager, designate another person as the 3318
 operations manager; 3319

(2) Within ten days after the designation described in 3320
 division ~~(D)~~ (E) (1) of this section, notify the superintendent in 3321
 writing of the designation; 3322

(3) Submit any additional information that the superintendent 3323
 requires to establish that the newly designated operations manager 3324
 complies with the ~~experience~~ requirements set forth in ~~division~~ 3325
~~(A) (4)~~ of section 1322.03 of the Revised Code. 3326

(F) The registrant shall cease operations if it is without an 3327
operations manager approved by the superintendent for more than 3328
one hundred eighty days unless otherwise authorized in writing by 3329
the superintendent due to exigent circumstances. 3330

(G) Mortgage broker certificates of registration issued on or 3331

after May 1, 2010, annually expire on the thirty-first day of 3332
December. 3333

Sec. 1322.041. (A) Upon the conclusion of the investigation 3334
 required under division ~~(B)~~(D) of section 1322.031 of the Revised 3335
 Code, the superintendent of financial institutions shall issue a 3336
 loan officer originator license to the applicant if the 3337
 superintendent finds that the following conditions are met: 3338

(1) The application is accompanied by the application fee and 3339
any fee required by the nationwide mortgage licensing system and 3340
registry. If 3341

(a) If a check or other draft instrument is returned to the 3342
superintendent for insufficient funds, the superintendent shall 3343
notify the applicant by certified mail, return receipt requested, 3344
that the application will be withdrawn unless the applicant, 3345
within thirty days after receipt of the notice, submits the 3346
application fee and a one-hundred-dollar penalty to the 3347
superintendent. If the applicant does not submit the application 3348
fee and penalty within that time period, or if any check or other 3349
draft instrument used to pay the fee or penalty is returned to the 3350
superintendent for insufficient funds, the application shall be 3351
withdrawn. 3352

(b) If a check or other draft instrument is returned to the 3353
superintendent for insufficient funds after the license has been 3354
issued, the superintendent shall notify the licensee by certified 3355
mail, return receipt requested, that the license issued in 3356
reliance on the check or other draft instrument will be canceled 3357
unless the licensee, within thirty days after receipt of the 3358
notice, submits the application fee and a one-hundred-dollar 3359
penalty to the superintendent. If the licensee does not submit the 3360
application fee and penalty within that time period, or if any 3361

check or other draft instrument used to pay the fee or penalty is 3362
 returned to the superintendent for insufficient funds, the license 3363
 shall be canceled immediately without a hearing, and the licensee 3364
 shall cease activity as a loan ~~officer~~ originator. 3365

(2) The applicant complies with sections 1322.01 to 1322.12 3366
 of the Revised Code and the rules adopted thereunder. 3367

(3) ~~The (a) During the seven-year period immediately~~ 3368
~~preceding the date of application for the license, the applicant~~ 3369
 has not been convicted of or pleaded guilty to any ~~eriminal~~ 3370
~~offense described in division (A) (2) of section 1322.031 of the~~ 3371
~~Revised Code and the applicant has not pleaded guilty to or been~~ 3372
~~convicted of a violation of an existing or former law of this~~ 3373
~~state, any other state, or the United States that substantially is~~ 3374
~~equivalent to a criminal offense described in that division.~~ 3375
~~However, if felony or a misdemeanor involving theft in a domestic,~~ 3376
~~foreign, or military court.~~ 3377

~~(b) At any time prior to the date the application for the~~ 3378
~~license is approved, the applicant has not been convicted of or~~ 3379
~~pleaded guilty to any such offense other than theft, the~~ 3380
~~superintendent shall not consider the offense if the applicant has~~ 3381
~~proven to the superintendent, by a preponderance of the evidence,~~ 3382
~~that the applicant's activities and employment record since the~~ 3383
~~conviction show that the applicant is honest, truthful, and of~~ 3384
~~good reputation, and there is no basis in fact for believing that~~ 3385
~~the applicant will commit such an offense again a felony involving~~ 3386
~~an act of fraud, dishonesty, a breach of trust, theft, or money~~ 3387
~~laundering in a domestic, foreign, or military court.~~ 3388

(4) ~~The applicant has not been subject to an adverse judgment~~ 3390
~~for conversion, embezzlement, misappropriation of funds, fraud,~~ 3391
~~misfeasance or malfeasance, or breach of fiduciary duty, or, if~~ 3392

~~the applicant has been subject to such a judgment~~ Based on the 3393
~~totality of the circumstances and information submitted in the~~ 3394
~~application,~~ the applicant has proven to the superintendent, by a 3395
preponderance of the evidence, that the ~~applicant's activities and~~ 3396
~~employment record since the judgment show that the applicant is~~ 3397
~~honest, truthful, and of good reputation, and there is no basis in~~ 3398
~~fact for believing that the applicant will be subject to such a~~ 3399
~~judgment again~~ business repute, appears qualified to act as a loan 3400
originator, has fully complied with sections 1322.01 to 1322.12 of 3401
the Revised Code and the rules adopted thereunder, and meets all 3402
of the conditions for issuing a loan originator license. 3403

(5) The applicant successfully completed the examination 3404
written test required under division (B) of section 1322.051 of 3405
the Revised Code and completed the ~~education requirements~~ 3406
prelicensing instruction set forth in division ~~(A)(4)(B)~~ of 3407
section 1322.031 of the Revised Code. 3408

(6) The applicant's financial responsibility, character, and 3409
general fitness command the confidence of the public and warrant 3410
the belief that the business will be operated honestly and fairly 3411
in compliance with the purposes of sections 1322.01 to 1322.12 of 3412
the Revised Code. The superintendent shall not use a credit score 3413
as the sole basis for a license denial. 3414

(7) The applicant is in compliance with the surety bond 3415
requirements of section 1322.05 of the Revised Code. 3416

(8) The applicant has not had a loan originator license, or 3417
comparable authority, revoked in any governmental jurisdiction. 3418

(B) The license issued under division (A) of this section may 3419
be renewed annually on or before the ~~thirtieth~~ thirty-first day of 3420
~~April~~ December if the superintendent finds that all of the 3421
following conditions are met: 3422

(1) The renewal application is accompanied by a nonrefundable 3423

renewal fee of one hundred fifty dollars and any fee required by 3424
the nationwide mortgage licensing system and registry. If a check 3425
 or other draft instrument is returned to the superintendent for 3426
 insufficient funds, the superintendent shall notify the licensee 3427
 by certified mail, return receipt requested, that the license 3428
 renewed in reliance on the check or other draft instrument will be 3429
 canceled unless the licensee, within thirty days after receipt of 3430
 the notice, submits the renewal fee and a one-hundred-dollar 3431
 penalty to the superintendent. If the licensee does not submit the 3432
 renewal fee and penalty within that time period, or if any check 3433
 or other draft instrument used to pay the fee or penalty is 3434
 returned to the superintendent for insufficient funds, the license 3435
 shall be canceled immediately without a hearing, and the licensee 3436
 shall cease activity as a loan ~~officer~~ originator. 3437

(2) ~~On and after January 1, 2003, the loan officer~~ The 3438
applicant has completed, ~~during the immediately preceding calendar~~ 3439
~~year,~~ at least ~~six~~ eight hours of continuing education as required 3440
 under section 1322.052 of the Revised Code. 3441

(3) The applicant meets the conditions set forth in divisions 3442
 (A) (2) to ~~(6)~~ (8) of this section. 3443

(4) The applicant's license is not subject to an order of 3444
 suspension or ~~revocation~~ an unpaid and past due fine imposed by 3445
 the superintendent. 3446

(C) (1) Subject to division (C) (2) of this section, if a 3447
 license renewal application or renewal fee, including any fee 3448
required by the nationwide mortgage licensing system and registry, 3449
 is received by the superintendent after the ~~thirtieth~~ thirty-first 3450
 day of ~~April~~ December, the license shall not be considered 3451
 renewed, and the applicant shall cease activity as a loan ~~officer~~ 3452
originator. 3453

(2) Division (C) (1) of this section shall not apply if the 3454

applicant, no later than the thirty-first day of ~~May~~ January, 3455
 submits the renewal application and ~~fee~~ fees and a 3456
 one-hundred-dollar penalty to the superintendent. 3457

(D) Loan originator licenses issued on or after May 1, 2010, 3458
annually expire on the thirty-first day of December. 3459

Sec. 1322.05. (A) (1) No registrant shall conduct business in 3460
 this state, unless the registrant has obtained and maintains in 3461
 effect at all times a corporate surety bond issued by a bonding 3462
 company or insurance company authorized to do business in this 3463
 state. The bond shall be in favor of the superintendent of 3464
 financial institutions and in the penal sum of ~~at least~~ one-half 3465
per cent of the aggregate loan amount of residential mortgage 3466
loans originated in the immediately preceding calendar year, but 3467
not exceeding one hundred fifty thousand dollars. Under no 3468
circumstances, however, shall the bond be less than fifty thousand 3469
 dollars and an additional penal sum of ten thousand dollars for 3470
 each location, in excess of one, at which the registrant conducts 3471
 business. The term of the bond shall coincide with the term of 3472
 registration. A copy of the bond shall be filed with the 3473
 superintendent. The bond shall be for the exclusive benefit of any 3474
 buyer injured by a violation by an employee of the registrant, 3475
licensee loan originator employed by or associated with the 3476
registrant, or registrant of any provision of sections 1322.01 to 3477
1322.12 of the Revised Code or any rule adopted thereunder. The 3478
 aggregate liability of the corporate surety for any and all 3479
 breaches of the conditions of the bond shall not exceed the penal 3480
 sum of the bond. 3481

(2) (a) No licensee who is employed by or associated with a 3482
person or entity listed in division (G) (2) of section 1322.01 of 3483
the Revised Code shall conduct business in this state, unless 3484
either the licensee or the person or entity on the licensee's 3485

behalf has obtained and maintains in effect at all times a 3486
corporate surety bond issued by a bonding company or insurance 3487
company authorized to do business in this state. The bond shall be 3488
in favor of the superintendent of financial institutions and in 3489
the penal sum of one-half per cent of the aggregate loan amount of 3490
residential mortgage loans originated in the immediately preceding 3491
calendar year, but not exceeding one hundred thousand dollars. 3492
Under no circumstances, however, shall the bond be less than fifty 3493
thousand dollars. The term of the bond shall coincide with the 3494
term of licensure. A copy of the bond shall be filed with the 3495
superintendent. The bond shall be for the exclusive benefit of any 3496
buyer injured by a violation by the licensee of any provision of 3497
sections 1322.01 to 1322.12 of the Revised Code or any rule 3498
adopted thereunder. The aggregate liability of the corporate 3499
surety for any and all breaches of the conditions of the bond 3500
shall not exceed the penal sum of the bond. 3501

(b) Licensees covered by a corporate surety bond obtained by 3502
a registrant, or by a person or entity listed in division (G) (2) 3503
of section 1322.01 of the Revised Code, they are employed by or 3504
associated with shall not be required to obtain an individual 3505
bond. 3506

(B) (1) (a) The registrant shall give notice to the 3507
 superintendent by certified mail of any action that is brought by 3508
 a buyer against the registrant ~~or, loan officer of the registrant~~ 3509
originator, or employee alleging injury by a violation of any 3510
 provision of sections 1322.01 to 1322.12 of the Revised Code or 3511
any rule adopted thereunder, and of any judgment that is entered 3512
 against the registrant ~~or, loan officer of the registrant~~ 3513
originator, or employee by a buyer injured by a violation of any 3514
 provision of sections 1322.01 to 1322.12 of the Revised Code or 3515
any rule adopted thereunder. The notice shall provide details 3516

sufficient to identify the action or judgment, and shall be filed 3517
with the superintendent within ten days after the commencement of 3518
the action or notice to the registrant of entry of a judgment. 3519

(b) The licensee shall give notice to the superintendent by 3520
certified mail of any action that is brought by a buyer against 3521
the licensee alleging injury by a violation of any provision of 3522
sections 1322.01 to 1322.12 of the Revised Code or any rule 3523
adopted thereunder, and of any judgment that is entered against 3524
the licensee by a buyer injured by a violation of any provision of 3525
sections 1322.01 to 1322.12 of the Revised Code or any rule 3526
adopted thereunder. The notice shall provide details sufficient to 3527
identify the action or judgment, and shall be filed with the 3528
superintendent within ten days after the commencement of the 3529
action or notice to the licensee of entry of a judgment. A person 3530
or entity listed in division (G)(2) of section 1322.01 of the 3531
Revised Code that secures bonding for the licensees employed by or 3532
associated with the person or entity shall report such actions or 3533
judgments in the same manner as is required of registrants. 3534

(2) A corporate surety, within ten days after it pays any 3535
claim or judgment, shall give notice to the superintendent by 3536
certified mail of the payment, with details sufficient to identify 3537
the person and the claim or judgment paid. 3538

(C) Whenever the penal sum of the corporate surety bond is 3539
reduced by one or more recoveries or payments, the registrant or 3540
licensee shall furnish a new or additional bond under this 3541
section, so that the total or aggregate penal sum of the bond or 3542
bonds equals the sum required by this section, or shall furnish an 3543
endorsement executed by the corporate surety reinstating the bond 3544
to the required penal sum of it. 3545

(D) The liability of the corporate surety on the bond to the 3546
superintendent and to any buyer injured by a violation of any 3547

provision of sections 1322.01 to 1322.12 of the Revised Code or 3548
any rule adopted thereunder shall not be affected in any way by 3549
any misrepresentation, breach of warranty, or failure to pay the 3550
premium, by any act or omission upon the part of the registrant or 3551
licensee, by the insolvency or bankruptcy of the registrant or 3552
licensee, or by the insolvency of the registrant's or licensee's 3553
estate. The liability for any act or omission that occurs during 3554
the term of the corporate surety bond shall be maintained and in 3555
effect for at least two years after the date on which the 3556
corporate surety bond is terminated or canceled. 3557

(E) The corporate surety bond shall not be canceled by the 3558
registrant, the licensee, or the corporate surety except upon 3559
notice to the superintendent by certified mail, return receipt 3560
requested. The cancellation shall not be effective prior to thirty 3561
days after the superintendent receives the notice. 3562

(F) No registrant or licensee employed by or associated with 3563
a person or entity listed in division (G)(2) of section 1322.01 of 3564
the Revised Code shall fail to comply with this section. Any 3565
registrant or licensee that fails to comply with this section 3566
shall cease all mortgage broker or loan originator activity in 3567
this state until the registrant or licensee complies with this 3568
section. 3569

Sec. 1322.051. (A) Each person designated under division 3570
(A) (3) of section 1322.03 of the Revised Code to act as operations 3571
manager for a mortgage broker business shall submit to ~~an~~ 3572
~~examination~~ a written test approved by the superintendent of 3573
financial institutions. An individual shall not be considered to 3574
have passed the written test unless the individual achieves a test 3575
score of at least seventy-five per cent correct answers to all 3576
questions. 3577

(B) Each applicant for a loan ~~officer~~ originator license 3578
 shall submit to ~~an examination approved by the superintendent a~~ 3579
written test that is developed and approved by the nationwide 3580
mortgage licensing system and registry and administered by a test 3581
provider approved by the nationwide mortgage licensing system and 3582
registry based on reasonable standards. 3583

(1) The test shall adequately measure the applicant's 3584
knowledge and comprehension in appropriate subject areas, 3585
including ethics, federal and state law related to mortgage 3586
origination, fraud, consumer protection, and the nontraditional 3587
mortgage marketplace, and fair lending issues. 3588

(2) An individual shall not be considered to have passed the 3589
written test unless the individual achieves a test score of at 3590
least seventy-five per cent correct answers on all questions and 3591
at least seventy-five per cent correct answers on all questions 3592
relating to state mortgage lending laws and the Ohio consumer 3593
sales practices act, Chapter 1345. of the Revised Code, as it 3594
applies to registrants and licensees. 3595

(3) An individual may retake the test three consecutive times 3596
provided the period between taking the tests is at least thirty 3597
days. If an individual fails three consecutive tests, the 3598
individual shall be required to wait at least six months before 3599
taking the test again. 3600

(4) If a loan originator fails to maintain a valid loan 3601
originator license for a period of five years or longer, the 3602
individual shall be required to retake the test. 3603

For this purpose, any time during which the individual is a 3604
registered loan originator shall not be taken into account. 3605

(C) Notwithstanding division (B) of this section, until the 3606
nationwide mortgage licensing system and registry implements a 3607

testing process that meets the criteria set forth in that 3608
 division, the superintendent shall require each applicant to pass 3609
 a written test acceptable to the superintendent. 3610

Sec. 1322.052. ~~On and after January 1, 2002, each~~ (A) Each 3611
 licensee and each person designated under division (A) (3) of 3612
 section 1322.03 of the Revised Code to act as operations manager 3613
 for a mortgage broker business shall complete at least ~~six~~ eight 3614
 hours of continuing education every calendar year. To fulfill this 3615
 requirement, the ~~six~~ eight hours of continuing education must be 3616
 offered in a course or program of study reviewed and approved by 3617
 the ~~superintendent of financial institutions~~ nationwide mortgage 3618
licensing system and registry. The course or program of study 3619
 shall include all of the following: 3620

(1) Three hours of applicable federal law and regulations; 3621

(2) Two hours of ethics, which shall include instruction on 3622
fraud, consumer protection, and fair lending issues; 3623

(3) Two hours of training related to lending standards for 3624
the nontraditional mortgage product marketplace. 3625

(B) Continuing education courses shall be reviewed and 3626
approved by the nationwide mortgage licensing system and registry 3627
based upon reasonable standards. 3628

(C) The following conditions shall apply to the continuing 3629
education required by this section: 3630

(1) An individual cannot take the same approved course in the 3631
same or successive years to meet the annual requirement for 3632
continuing education. 3633

(2) An individual can only receive credit for a continuing 3634
education course in the year in which the course is taken, unless 3635
the individual is making up a deficiency in continuing education 3636

as permitted by rule or order of the superintendent of financial institutions. 3637
3638

(3) A licensee who subsequently becomes unlicensed must complete the continuing education requirement for the last year in which the license was held prior to the issuance of a new or renewed license. 3639
3640
3641
3642

(4) A licensee who is approved as an instructor of a continuing education course receives credit for the licensee's own annual continuing education requirement at the rate of two credit hours for every one hour taught. 3643
3644
3645
3646

(5) If an individual successfully completed a continuing education course reviewed and approved by the nationwide mortgage licensing system and registry as required by another state, the individual can receive credit toward completion of the continuing education requirement of this state. 3647
3648
3649
3650
3651

(D) Notwithstanding division (A) of this section, until the nationwide mortgage licensing system and registry implements a review and approval process, each licensee or person designated under division (A) (3) of section 1322.03 of the Revised Code shall provide evidence that the licensee or person has successfully completed at least eight hours of continuing education in a course or program of study approved by the superintendent of financial institutions. 3652
3653
3654
3655
3656
3657
3658
3659

Sec. 1322.06. (A) As often as the superintendent of financial institutions considers it necessary, the superintendent may examine the registrant's or licensee's records, including all records created or processed by a licensee, pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code. 3660
3661
3662
3663
3664
3665

(B) A registrant or licensee shall maintain records 3666

pertaining to business transacted pursuant to sections 1322.01 to 3667
1322.12 of the Revised Code, including copies of all mortgage loan 3668
origination disclosure statements prepared in accordance with 3669
section 1322.062 of the Revised Code, for four years. ~~No~~ For 3670
purposes of this division, "registrant or licensee" includes any 3671
person whose certificate of registration or license is cancelled, 3672
surrendered, or revoked or who otherwise ceases to engage in 3673
business as a mortgage broker or loan originator. 3674

No registrant or licensee shall fail to comply with this 3675
division. 3676

(C) Each registrant and licensee shall submit to the 3677
nationwide mortgage licensing system and registry call reports or 3678
other reports of condition, which reports shall be in such form 3679
and shall contain such information as the nationwide mortgage 3680
licensing system and registry may require. 3681

(D) (1) As required by the superintendent, each registrant 3682
shall file with the division of financial institutions an annual 3683
report under oath or affirmation, on forms supplied by the 3684
division, concerning the business and operations of the registrant 3685
for the preceding calendar year. If a registrant operates two or 3686
more registered offices, or two or more affiliated registrants 3687
operate registered offices, a composite report of the group of 3688
registered offices may be filed in lieu of individual reports. 3689

(2) The division shall publish annually an analysis of the 3690
information required under division (D) (1) of this section, but 3691
the individual reports shall not be public records and shall not 3692
be open to public inspection or otherwise be subject to section 3693
149.43 of the Revised Code. 3694

Sec. 1322.061. (A) (1) The following information is 3695
confidential: 3696

(a) Examination information, and any information leading to	3697
or arising from an examination;	3698
(b) Investigation information, and any information arising	3699
from or leading to an investigation.	3700
(2) The information described in division (A)(1) of this	3701
section shall remain confidential for all purposes except when it	3702
is necessary for the superintendent of financial institutions to	3703
take official action regarding the affairs of a registrant or	3704
licensee, or in connection with criminal or civil proceedings to	3705
be initiated by a prosecuting attorney or the attorney general.	3706
This information may also be introduced into evidence or disclosed	3707
when and in the manner authorized by section 1181.25 of the	3708
Revised Code.	3709
(B) All application information, except social security	3710
numbers, employer identification numbers, financial account	3711
numbers, the identity of the institution where financial accounts	3712
are maintained, personal financial information, fingerprint cards	3713
and the information contained on such cards, and criminal	3714
background information, is a public record as defined in section	3715
149.43 of the Revised Code.	3716
(C) This section does not prevent the division of financial	3717
institutions from releasing to or exchanging with other financial	3718
institution regulatory authorities information relating to	3719
registrants and licensees. For this purpose, a "financial	3720
institution regulatory authority" includes a regulator of a	3721
business activity in which a registrant or licensee is engaged, or	3722
has applied to engage in, to the extent that the regulator has	3723
jurisdiction over a registrant or licensee engaged in that	3724
business activity. A registrant or licensee is engaged in a	3725
business activity, and a regulator of that business activity has	3726
jurisdiction over the registrant or licensee, whether the	3727

registrant or licensee conducts the activity directly or a 3728
 subsidiary or affiliate of the registrant or licensee conducts the 3729
 activity. 3730

(D) The superintendent shall, on a regular basis, report 3731
violations of sections 1322.01 to 1322.12 of the Revised Code, as 3732
well as enforcement actions and other relevant information, to the 3733
nationwide mortgage licensing system and registry. 3734

(E) (1) Any confidentiality or privilege arising under federal 3735
or state law with respect to any information or material provided 3736
to the nationwide mortgage licensing system and registry shall 3737
continue to apply to the information or material after the 3738
information or material is provided to the nationwide mortgage 3739
licensing system and registry. The information and material so 3740
provided may be released to any state or federal regulatory 3741
official with mortgage industry oversight authority without the 3742
loss of confidentiality or privilege protections provided by 3743
federal law or the law of any state. Information or material 3744
described in division (E) (1) of this section to which 3745
confidentiality or privilege applies shall not be subject to any 3746
of the following: 3747

(a) Disclosure under any federal or state law governing 3748
disclosure to the public of information held by an officer or an 3749
agency of the federal government or of the respective state; 3750

(b) Subpoena or discovery, or admission into evidence, in any 3751
private civil action or administrative process, unless the person 3752
to whom such information or material pertains waives, in whole or 3753
in part and at the discretion of the person, any privilege held by 3754
the nationwide mortgage licensing system and registry with respect 3755
to that information or material. 3756

(2) The superintendent, in order to promote more effective 3757
regulation and reduce regulatory burden through supervisory 3758

information sharing, may enter into sharing arrangements with 3759
other governmental agencies, the conference of state bank 3760
supervisors, and the American association of residential mortgage 3761
regulators. 3762

(3) Any state law, including section 149.43 of the Revised 3763
Code, relating to the disclosure of confidential supervisory 3764
information or any information or material described in division 3765
(A)(1) or (E)(1) of this section that is inconsistent with this 3766
section shall be superseded by the requirements of this section. 3767

(F) This section shall not apply with respect to information 3768
or material relating to the employment history of, and publicly 3769
adjudicated disciplinary and enforcement actions against, loan 3770
originators that is included in the nationwide mortgage licensing 3771
system and registry for access by the public. 3772

(G) This section does not prevent the division from releasing 3773
information relating to registrants and licensees to the attorney 3774
general, to the superintendent of real estate and professional 3775
licensing for purposes relating to the administration of Chapters 3776
4735. and 4763. of the Revised Code, to the superintendent of 3777
insurance for purposes relating to the administration of Chapter 3778
3953. of the Revised Code, to the commissioner of securities for 3779
purposes relating to the administration of Chapter 1707. of the 3780
Revised Code, or to local law enforcement agencies and local 3781
prosecutors. Information the division releases pursuant to this 3782
section remains confidential. 3783

(H) The superintendent of financial institutions shall, by 3784
rule adopted in accordance with Chapter 119. of the Revised Code, 3785
establish a process by which loan originators may challenge any 3786
information provided to the nationwide mortgage licensing system 3787
and registry by the superintendent. 3788

Sec. 1322.062. (A) (1) Within three business days after taking 3789
 an application for a residential mortgage loan from a buyer, a 3790
 registrant or licensee shall deliver to the buyer a residential 3791
 mortgage loan origination disclosure statement that contains all 3792
 of the following: 3793

(a) The name, address, and telephone number of the buyer; 3794

(b) The typewritten name of the loan ~~officer~~ originator and 3795
 the number designated on the loan ~~officer's~~ originator's license; 3796

(c) The street address, telephone number, and facsimile 3797
 number of the registrant and the number designated on the 3798
 registrant's certificate of registration; 3799

(d) The signature of the loan ~~officer~~ originator or 3800
 registrant; 3801

(e) A statement indicating whether the buyer is to pay for 3802
 the services of a bona fide third party if the registrant is 3803
 unable to assist the buyer in obtaining a mortgage; 3804

(f) A statement that describes the method by which the fee to 3805
 be paid by the buyer to the registrant will be calculated and a 3806
 good faith estimate of the total amount of that fee; 3807

(g) A statement that the lender may pay compensation to the 3808
 registrant; 3809

(h) A description of all the services the registrant has 3810
 agreed to perform for the buyer; 3811

(i) A statement that the buyer has not entered into an 3812
 exclusive agreement for brokerage services; 3813

(j) If the residential mortgage loan applied for will exceed 3814
 ninety per cent of the value of the real property, a statement, 3815
 printed in boldface type of the minimum size of sixteen points, as 3816

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. 3821

(2) If the loan is a covered loan as defined in section 3822
1349.25 of the Revised Code, the registrant shall also deliver a 3823
copy of the residential mortgage loan origination disclosure 3824
statement to the lender. 3825

(B) If there is any change in the information provided under 3826
division (A) (1) of this section, the registrant or licensee shall 3827
provide the buyer with the revised residential mortgage loan 3828
origination disclosure statement and a written explanation of why 3829
the change occurred no later than twenty-four hours after the 3830
change occurs, or twenty-four hours before the loan is closed, 3831
whichever is earlier. 3832

(C) A registrant or licensee shall deliver to the buyer, 3833
immediately upon receipt, a copy of any nonproprietary or publicly 3834
available credit score and report obtained regarding the buyer by 3835
the registrant or licensee for the purpose of the residential 3836
mortgage loan application; 3837

If the loan ~~officer~~ originator or registrant uses an 3838
automated valuation model to determine an appraisal report, the 3839
registrant or licensee also shall include a copy of the automated 3840
valuation model report. 3841

(D) A registrant or licensee shall deliver to the buyer, at 3842
the same time that the registrant or licensee delivers the 3843
residential mortgage loan origination disclosure statement 3844
pursuant to division (A) of this section, a good faith estimate 3845
statement that discloses the amount of or range of charges for the 3846
specific settlement services the buyer is likely to incur in 3847

connection with the residential mortgage loan. The good faith estimate statement shall meet the requirements of the "Real Estate Settlement Procedures Act," 88 Stat. 1724 (1974) ~~7~~ 12 U.S.C.A. 2601 et seq., and shall include the following underlined notice in at least ten-point type, new roman style:

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

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

1. The loan closes.
2. The request is denied.
3. The borrower withdraws the request.
4. The borrower decides to use another source for origination.

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

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 ~~re-disclosure~~ redisdisclosure 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, ~~7~~ mandatory ~~re-disclosure~~ redisdisclosure must occur prior to the settlement or close of escrow."

	3878
(E) No registrant <u>or licensee</u> shall fail to comply with this section.	3879 3880
Sec. 1322.063. (A) In addition to the disclosures required under section 1322.062 of the Revised Code, a registrant <u>or licensee</u> shall, not <u>earlier than three business days nor</u> later than twenty-four hours before a loan is closed, deliver to the buyer a written disclosure that includes the following:	3881 3882 3883 3884 3885
(1) A statement indicating whether property taxes will be escrowed;	3886 3887
(2) A description of what is covered by the regular monthly payment, including principal, interest, taxes, and insurance, as applicable.	3888 3889 3890
(B) No registrant <u>or licensee</u> shall fail to comply with this section.	3891 3892
Sec. 1322.064. (A) No registrant or licensee shall fail to do either of the following:	3893 3894
(1) Timely inform the buyer of any material change in the terms of the <u>residential mortgage</u> loan. For purposes of division (A)(1) of this section, "material change" means the following:	3895 3896 3897
(a) A change in the type of <u>residential mortgage</u> loan being offered, such as a fixed or variable rate loan or a loan with a balloon payment;	3898 3899 3900
(b) A change in the term of the <u>residential mortgage</u> loan, as reflected in the number of monthly payments due before a final payment is scheduled to be made;	3901 3902 3903
(c) A change in the interest rate of more than 0.15%;	3904
(d) A change in the regular <u>total</u> monthly payment of,	3905

including principal and, interest, any required mortgage 3906
insurance, and any escrowed taxes or property insurance, of more 3907
 than five per cent; 3908

(e) A change regarding whether the escrow of taxes or 3909
 insurance is required; 3910

(f) A change regarding ~~the payment of~~ whether private 3911
 mortgage insurance is required. 3912

(2) Timely inform the buyer if any fees payable by the buyer 3913
 to the licensee, registrant, or lender increase by more than ten 3914
 per cent or one hundred dollars, whichever is greater. 3915

(B) The disclosures required by this section shall be deemed 3916
 timely if the registrant or licensee provides the buyer with the 3917
 revised information not later than twenty-four hours after the 3918
 change occurs, or twenty-four hours before the loan is closed, 3919
 whichever is earlier. 3920

(C) If an increase in the total amount of the fee to be paid 3921
 by the buyer to the registrant or licensee is not disclosed in 3922
 accordance with division (A)(2) of this section, the registrant or 3923
licensee shall refund to the buyer the amount by which the fee was 3924
 increased. If the fee is financed into the loan, the registrant or 3925
licensee shall also refund to the buyer the interest that would 3926
 accrue over the term of the loan on that excess amount. 3927

Sec. 1322.065. A person registered as a mortgage broker 3928
solely to sell leads of potential buyers to residential mortgage 3929
lenders or mortgage brokers, or solely to match buyers with 3930
residential mortgage lenders or mortgage brokers through a 3931
computerized loan origination system recognized by the United 3932
States department of housing and urban development, shall be 3933
required to make only those disclosures under sections 1322.01 to 3934
1322.12 of the Revised Code that apply to the portion of the 3935

transaction during which they have direct buyer contact, and shall be subject to all fair conduct and prohibition requirements in their dealing with buyers.

3936
3937
3938

Sec. 1322.07. No ~~mortgage broker~~, registrant, licensee, or applicant for a certificate of registration person required to be registered or license 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:

3939
3940
3941
3942
3943
3944

(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;

3945
3946
3947
3948
3949

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

3950
3951
3952
3953

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

3954
3955

(D) Fail to notify the division of financial institutions within thirty days after ~~the registrant, licensee, or applicant, in a court of competent jurisdiction of this state or any other state, is~~ any of the following:

3956
3957
3958
3959

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

3960
3961

(2) Being convicted of or ~~pleads~~ pleading guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money

3962
3963
3964

laundering, breach of trust, dishonesty, or drug trafficking, or 3965
any criminal offense involving money or securities; 3966

(3) Having a mortgage broker certificate of registration or 3967
loan originator license, or any comparable authority, revoked in 3968
any governmental jurisdiction. 3969

(E) Knowingly make, propose, or solicit fraudulent, false, or 3970
misleading statements on any mortgage loan document or on any 3971
document related to a mortgage loan, including a mortgage 3972
application, real estate appraisal, or real estate settlement or 3973
closing document. For purposes of this division, "fraudulent, 3974
false, or misleading statements" does not include mathematical 3975
errors, inadvertent transposition of numbers, typographical 3976
errors, or any other bona fide error. 3977

(F) Knowingly instruct, solicit, propose, or otherwise cause 3978
a buyer to sign in blank a mortgage related document; 3979

(G) Knowingly compensate, instruct, induce, coerce, or 3980
intimidate, or attempt to compensate, instruct, induce, coerce, or 3981
intimidate, a person licensed or certified under Chapter 4763. of 3982
the Revised Code for the purpose of corrupting or improperly 3983
influencing the independent judgment of the person with respect to 3984
the value of the dwelling offered as security for repayment of a 3985
mortgage loan; 3986

(H) Promise to refinance a loan in the future at a lower 3987
interest rate or with more favorable terms, unless the promise is 3988
set forth in writing and is initialed by the buyer; 3989

(I) Engage in any unfair, deceptive, or unconscionable act or 3990
practice prohibited under sections 1345.01 to 1345.13 of the 3991
Revised Code. 3992

Sec. 1322.071. (A) As used in this section, "bona fide third 3993
party" has the same meaning as in section 1322.08 of the Revised 3994

Code.	3995
(B) No mortgage broker, registrant, <u>loan originator</u> , or licensee shall do any of the following:	3996 3997
(1) Retain original documents provided to the mortgage broker, registrant, <u>loan originator</u> , or licensee by the buyer in connection with the <u>residential mortgage</u> loan application, including income tax returns, account statements, or other financial related documents;	3998 3999 4000 4001 4002
(2) Receive, directly or indirectly, a premium on the fees charged for services performed by a bona fide third party;	4003 4004
(3) Pay or receive, directly or indirectly, a referral fee or kickback of any kind to or from a bona fide third party or other party with a related interest in the transaction, such as <u>including</u> a home improvement builder, real estate developer, or real estate broker or agent, for the referral of business.	4005 4006 4007 4008 4009
<u>(C) No registrant, through its operations manager or otherwise, shall fail to do either of the following:</u>	4010 4011
<u>(1) Reasonably supervise a loan originator or other persons associated with the registrant;</u>	4012 4013
<u>(2) Establish reasonable procedures designed to avoid violations of sections 1322.01 to 1322.12 of the Revised Code or rules adopted thereunder, or violations of applicable state and federal consumer and lending laws or rules, by loan originators or other persons associated with the registrant.</u>	4014 4015 4016 4017 4018
Sec. 1322.072. No person, in connection with any examination or investigation conducted by the superintendent of financial institutions under sections 1322.01 to 1322.12 of the Revised Code, shall knowingly do either <u>any</u> of the following:	4019 4020 4021 4022
(A) Circumvent, interfere with, obstruct, or fail to	4023

cooperate, including making a false or misleading statement, 4024
 failing to produce records, or intimidating or suborning any 4025
 witness; 4026

(B) Tamper with, alter, or manufacture any evidence; 4027

(C) Withhold, abstract, remove, mutilate, destroy, or secrete 4028
any books, records, computer records, or other information. 4029

~~Sec. 1322.074. (A) As used in this section and section 4030~~
~~1322.075 of the Revised Code: 4031~~

~~(1) "Appraisal company" means a sole proprietorship, 4032~~
~~partnership, corporation, limited liability company, or any other 4033~~
~~business entity or association, that employs or retains the 4034~~
~~services of a person licensed or certified under Chapter 4763. of 4035~~
~~the Revised Code for purposes of performing residential real 4036~~
~~estate appraisals for mortgage loans. 4037~~

~~(2) "Immediate family" means a spouse residing in the 4038~~
~~person's household and any dependent child. 4039~~

~~(B) Except as otherwise provided in division ~~(C)~~(B) of this 4040~~
~~section, no registrant, or any member of the registrant's 4041~~
~~immediate family of an owner of a registrant, shall own or control 4042~~
~~a majority interest in an appraisal company. 4043~~

~~(C)(B) Division ~~(B)~~(A) of this section shall not apply to any 4044~~
~~registrant, or any member of the registrant's immediate family of 4045~~
~~an owner of a registrant, who, on the effective date of this 4046~~
~~section amendment, directly or indirectly owns or controls a 4047~~
~~majority interest in an appraisal company. However, such ownership 4048~~
~~or control is subject to the following conditions: 4049~~

(1) The registrant and members of the ~~registrant's~~ immediate 4050
 family of an owner of a registrant shall not increase their 4051
 interest in the company. 4052

(2) The interest is not transferable to a member of the
~~registrant's~~ immediate family of an owner of a registrant. 4053
 4054

(3) If the registrant is convicted of or pleads guilty to a 4055
 criminal violation of sections 1322.01 to 1322.12 of the Revised 4056
 Code or any criminal offense described in division (A) (1) (b) of 4057
 section 1322.10 of the Revised Code, the superintendent of 4058
 financial institutions may, ~~as an alternative~~ in addition to any 4059
 of the actions authorized under section 1322.10 of the Revised 4060
 Code, order the registrant or members of the ~~registrant's~~ 4061
 immediate family of an owner of a registrant to divest their 4062
 interest in the company. 4063

Sec. 1322.075. (A) No registrant or licensee or person 4064
 required to be registered or licensed under ~~this chapter~~ sections 4065
1322.01 to 1322.12 of the Revised Code shall refer a buyer to any 4066
 settlement service provider, including any title insurance 4067
 company, without providing the buyer with written notice 4068
 disclosing all of the following: 4069

(1) Any business relationship that exists between the 4070
 registrant, licensee, or person required to be registered or 4071
 licensed under ~~this chapter~~ sections 1322.01 to 1322.12 of the 4072
Revised Code, and the provider to which the buyer is being 4073
 referred, and any financial benefit that the registrant, licensee, 4074
 or person may be provided because of the relationship; 4075

(2) The percentage of ownership interest the registrant, 4076
 licensee, or person required to be registered or licensed under 4077
~~this chapter~~ sections 1322.01 to 1322.12 of the Revised Code has 4078
 in the provider to which the buyer is being referred; 4079

(3) The estimated charge or range of charges for the 4080
 settlement service listed; 4081

(4) The following statement, printed in boldface type of the 4082

minimum size of sixteen points: "There are frequently other
settlement service providers available with similar services. You
are free to shop around to determine that you are receiving the
best services and the best rate for these services."

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

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

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

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

(D) The registrant, licensee, or person required to be
registered or licensed under ~~this chapter~~ sections 1322.01 to
1322.12 of the Revised Code shall retain proof that the buyer
received the written disclosures required by division (A) of this
section for four years.

Sec. 1322.08. (A) No registrant shall fail to do any of the
following:

(1) Maintain a special account;

(2) Deposit into the registrant's special account any bona
fide third-party fee the registrant receives;

(3) Pay bona fide third-party fees to a bona fide third party

from the registrant's special account. 4112

(B) Except as otherwise provided in ~~this division~~ sections 4113
1322.01 to 1322.12 of the Revised Code, no registrant shall charge 4114
or receive, directly or indirectly, fees for assisting a buyer in 4115
obtaining a residential mortgage loan, until all of the services 4116
that the registrant has agreed to perform for the buyer are 4117
completed, and the proceeds of the residential mortgage loan have 4118
been disbursed to or on behalf of the buyer. However, prior to 4119
completion of such services the following fees may be paid for 4120
services performed by a bona fide third party in assisting the 4121
buyer to obtain a residential mortgage loan if the fees are either 4122
paid directly by the buyer to the bona fide third party or, except 4123
as provided in division (B) (5) of this section, the fees are 4124
deposited by the registrant into the registrant's special account 4125
for services performed by the bona fide third party: 4126

(1) Fees to obtain a report from a credit reporting agency; 4127

(2) Fees for notary services; 4128

(3) Fees for the performance of a title search, appraisal of 4129
the real estate, or survey of the real estate; 4130

(4) Fees charged by a lender for locking in an interest rate 4131
in connection with obtaining or refinancing a residential mortgage 4132
loan, provided that the fees do not exceed an amount equal to one 4133
and one-half per cent of the mortgage loan amount; 4134

(5) Fees not exceeding five hundred dollars paid directly by 4135
the buyer to a state or federal government agency or 4136
instrumentality for purposes of processing a mortgage application 4137
relating to a government sponsored or guaranteed mortgage program. 4138

(C) If fees are paid by a buyer for the performance of any of 4139
the services described in division (B) (3) of this section and the 4140
registrant is unable to assist in obtaining a mortgage for the 4141

buyer, the registrant shall return to the buyer the original 4142
documents prepared by the bona fide third party at the time that 4143
the request for the mortgage is refused or denied. With respect to 4144
any appraisal, however, the registrant may return either the 4145
original or a copy. No registrant shall fail to comply with this 4146
division. 4147

(D) For purposes of this section: 4148

(1) "Bona fide third party" means a person that is not an 4149
employee of, related to, or affiliated with, the registrant, and 4150
that is not used for the purpose of circumvention or evasion of 4151
this section. 4152

(2) "Special account" means a an insured depository account 4153
with a financial depository institution, ~~the deposits of which are~~ 4154
~~insured by the federal deposit insurance corporation,~~ that is 4155
separate and distinct from any personal or other account of the 4156
registrant, and that is maintained solely for the holding and 4157
payment of fees described in this section for services performed 4158
by bona fide third parties and received by the registrant from 4159
buyers that the registrant assists in obtaining mortgages. 4160

Sec. 1322.081. (A) A registrant, licensee, and any person 4161
required to be registered or licensed under ~~this chapter~~ sections 4162
1322.01 to 1322.12 of the Revised Code, in addition to duties 4163
imposed by other statutes or common law, shall do all of the 4164
following: 4165

(1) Safeguard and account for any money handled for the 4166
~~borrower~~ buyer; 4167

(2) Follow reasonable and lawful instructions from the 4168
~~borrower~~ buyer; 4169

(3) Act with reasonable skill, care, and diligence; 4170

(4) Act in good faith and with fair dealing in any 4171
 transaction, practice, or course of business in connection with 4172
 the brokering or originating of any residential mortgage loan; 4173

(5) Make reasonable efforts to secure a residential mortgage 4174
 loan, from lenders with whom the registrant, licensee, or person 4175
 regularly does business, with rates, charges, and repayment terms 4176
 that are advantageous to the ~~borrower~~ buyer. 4177

(B) Division (A) of this section shall not apply to wholesale 4178
 lenders. However, wholesale lenders are subject to all other 4179
 requirements applicable to mortgage brokers and nonbank mortgage 4180
 lenders. For purposes of this division, "wholesale lender" means a 4181
 company that has been issued a mortgage broker certificate of 4182
 registration and that enters into transactions with buyers 4183
 exclusively through unaffiliated third-party mortgage brokers. 4184

(C) The duties and standards of care created in this section 4185
 cannot be waived or modified. 4186

(D) (1) A buyer injured by a violation of this section may 4187
 bring an action for recovery of damages. 4188

(2) Damages awarded under division (D) (1) of this section 4189
 shall not be less than all compensation paid directly or 4190
 indirectly to a mortgage broker from any source, plus reasonable 4191
 attorney's fees and court costs. 4192

(3) The buyer may be awarded punitive damages. 4193

(E) A buyer injured by a violation of this section is 4194
 precluded from recovering any damages, plus reasonable attorney's 4195
 fees and costs, if the buyer has also recovered any damages in a 4196
 cause of action initiated under section 1322.11 of the Revised 4197
 Code and the recovery of damages for a violation of this section 4198
 is based on the same acts or circumstances as the basis for 4199
 recovery of damages in section 1322.11 of the Revised Code. 4200

Sec. 1322.09. (A) A mortgage broker or loan originator shall 4201
disclose in any printed, televised, broadcast, electronically 4202
transmitted, or published advertisement relating to the mortgage 4203
broker's or loan originator's services, including on any 4204
electronic site accessible through the internet, the name and 4205
street address of the mortgage broker or loan originator and the 4206
number designated on the certificate of registration or license 4207
that is issued to the mortgage broker or loan originator by the 4208
superintendent of financial institutions under sections 1322.01 to 4209
1322.12 of the Revised Code. 4210

(B) In making any advertisement, a mortgage broker shall 4211
comply with 12 C.F.R. 226.16, as amended. 4212

(C) No mortgage broker or loan originator shall fail to 4213
comply with this section. 4214

Sec. 1322.10. (A) After notice and opportunity for a hearing 4215
conducted in accordance with Chapter 119. of the Revised Code, the 4216
superintendent of financial institutions may do the following: 4217

(1) Suspend, revoke, or refuse to issue or renew a 4218
certificate of registration or license if the superintendent finds 4219
either any of the following: 4220

(a) A violation of or failure to comply with any provision of 4221
sections 1322.01 to 1322.12 of the Revised Code or the rules 4222
adopted under those sections, federal lending law, or any other 4223
law applicable to the business conducted under a certificate of 4224
registration or license; 4225

(b) A conviction of or guilty plea to a felony in a domestic, 4226
foreign, or military court; 4227

(c) A conviction of or guilty plea to any criminal offense 4228
involving theft, receiving stolen property, embezzlement, forgery, 4229

fraud, passing bad checks, money laundering, breach of trust, 4230
dishonesty, or drug trafficking, or any criminal offense involving 4231
 money or securities, in a domestic, foreign, or military court; 4232

(d) The revocation of a mortgage broker certificate of 4233
registration or loan originator license, or any comparable 4234
authority, in any governmental jurisdiction. 4235

(2) Impose a fine of not more than one thousand dollars, for 4236
 each day a violation of a law or rule is committed, repeated, or 4237
 continued. If the registrant or licensee engages in a pattern of 4238
 repeated violations of a law or rule, the superintendent may 4239
 impose a fine of not more than two thousand dollars for each day 4240
 the violation is committed, repeated, or continued. All fines 4241
 collected pursuant to this division shall be paid to the treasurer 4242
 of state to the credit of the consumer finance fund created in 4243
 section 1321.21 of the Revised Code. In determining the amount of 4244
 a fine to be imposed pursuant to this division, the superintendent 4245
~~shall~~ may consider all of the following, to the extent known by 4246
the division of financial institutions: 4247

(a) The seriousness of the violation; 4248

(b) The registrant's or licensee's good faith efforts to 4249
 prevent the violation; 4250

(c) The registrant's or licensee's history regarding 4251
 violations and compliance with division orders; 4252

(d) The registrant's or licensee's financial resources; 4253

(e) Any other matters the superintendent considers 4254
 appropriate in enforcing sections 1322.01 to 1322.12 of the 4255
 Revised Code. 4256

(B) The superintendent may investigate alleged violations of 4257
 sections 1322.01 to 1322.12 of the Revised Code or the rules 4258
 adopted under those sections or complaints concerning any ~~such~~ 4259

violation. The 4260

(1) The superintendent may make application to the court of 4261
common pleas for an order enjoining any ~~such~~ violation, and, upon 4262
a showing by the superintendent that a person has committed or is 4263
about to commit ~~such a~~ that violation, the court shall grant an 4264
injunction, restraining order, or other appropriate relief. 4265

(2) The superintendent may make application to the court of 4266
common pleas for an order enjoining any person from acting as a 4267
mortgage broker, registrant, loan originator, or licensee in 4268
violation of division (A) or (B) of section 1322.02 of the Revised 4269
Code, and may seek and obtain civil penalties for unregistered or 4270
unlicensed conduct of not more than five thousand dollars per 4271
violation. 4272

(C) In conducting any investigation pursuant to this section, 4273
the superintendent may compel, by subpoena, witnesses to testify 4274
in relation to any matter over which the superintendent has 4275
jurisdiction and may require the production of any book, record, 4276
or other document pertaining to that matter. If a person fails to 4277
file any statement or report, obey any subpoena, give testimony, 4278
produce any book, record, or other document as required by a 4279
subpoena, or permit photocopying of any book, record, or other 4280
document subpoenaed, the court of common pleas of any county in 4281
this state, upon application made to it by the superintendent, 4282
shall compel obedience by attachment proceedings for contempt, as 4283
in the case of disobedience of the requirements of a subpoena 4284
issued from the court or a refusal to testify therein. 4285

(D) If the superintendent determines that a person is engaged 4286
in or is believed to be engaged in activities that may constitute 4287
a violation of sections 1322.01 to 1322.12 of the Revised Code or 4288
any rule adopted thereunder, the superintendent, after notice and 4289
a hearing conducted in accordance with Chapter 119. of the Revised 4290

Code, may issue a cease and desist order. If the administrative 4291
action is to enjoin a person from acting as a mortgage broker or 4292
loan originator in violation of division (A) or (B) of section 4293
1322.02 of the Revised Code, the superintendent may seek and 4294
impose fines for that conduct in an amount not to exceed five 4295
thousand dollars per violation. Such an order shall be enforceable 4296
in the court of common pleas. 4297

(E) If the superintendent revokes ~~the~~ a mortgage broker 4298
certificate of registration or loan originator license ~~of a~~ 4299
~~registrant or licensee who is convicted of or pleads guilty to a~~ 4300
~~criminal violation of any provision of sections 1322.01 to 1322.12~~ 4301
~~of the Revised Code or any criminal offense described in division~~ 4302
~~(A)(1)(b) of this section,~~ the revocation shall be permanent and 4303
with prejudice. 4304

(F) (1) To protect the public interest, the superintendent 4305
may, without a prior hearing, do any of the following: 4306

(a) Suspend the mortgage broker certificate of registration 4307
or loan originator license of a registrant or licensee who is 4308
convicted of or pleads guilty to a criminal violation of any 4309
provision of sections 1322.01 to 1322.12 of the Revised Code or 4310
any criminal offense described in division (A) (1) (b) or (c) of 4311
this section; 4312

(b) Suspend the mortgage broker certificate of registration 4313
of a registrant who violates division (F) of section 1322.05 of 4314
the Revised Code; 4315

(c) Suspend the mortgage broker certificate of registration 4316
or loan originator license of a registrant or licensee who fails 4317
to comply with a request made by the superintendent under section 4318
1322.03 or 1322.031 of the Revised Code to inspect qualifying 4319
education transcripts located at the registrant's or licensee's 4320
place of business. 4321

~~(2) The superintendent shall, without a prior hearing, suspend the certificate of registration of a registrant whose operations manager has failed to fulfill the continuing education requirements of section 1322.052 of the Revised Code and suspend the license of a licensee who has failed to fulfill those continuing education requirements. The suspension shall continue until such time as the required continuing education is completed and a fine of five hundred dollars is paid to the treasurer of state to the credit of the consumer finance fund.~~

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

~~(4)(3) The superintendent shall, in accordance with Chapter 119. of the Revised Code, adopt rules establishing the maximum amount of time a suspension under division (F)(1) of this section may continue before a hearing is conducted.~~

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

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

(2) Damages awarded under division (A)(1) of this section shall not be less than all compensation paid directly and indirectly to a mortgage broker or loan originator from any source, plus reasonable attorney's fees and court costs.

(3) The buyer may be awarded punitive damages.

(B)(1) The superintendent of financial institutions or a

buyer may directly bring an action to enjoin a violation of
sections 1322.01 to 1322.12 of the Revised Code. The attorney
general may directly bring an action to enjoin a violation of
sections 1322.01 to 1322.12 of the Revised Code with the same
rights, privileges, and powers as those described in section
1345.06 of the Revised Code. The prosecuting attorney of the
county in which the action may be brought may bring an action to
enjoin a violation of sections 1322.01 to 1322.12 of the Revised
Code only if the prosecuting attorney first presents any evidence
of the violation to the attorney general and, within a reasonable
period of time, the attorney general has not agreed to bring the
action.

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

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

(4) In order to initiate criminal proceedings under sections
1322.01 to 1322.12 of the Revised Code, the attorney general shall
first present any evidence of criminal violations to the

prosecuting attorney of the county in which the alleged offense
may be prosecuted. If, within a reasonable period of time, the
prosecuting attorney has not agreed to prosecute the violations,
the attorney general may proceed in the prosecution with all the
rights, privileges, and powers described in division (B)(2) of
this section.

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

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

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

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

(F) Upon disbursement of mortgage loan proceeds to or on
behalf of the buyer, the registrant that assisted the buyer to
obtain the mortgage loan is deemed to have completed the
performance of the registrant's services for the buyer and owes no
additional duties or obligations to the buyer with respect to the
mortgage loan. However, nothing in this division shall be
construed to limit or preclude the civil or criminal liability of
a registrant for failing to comply with sections 1322.01 to
1322.12 of the Revised Code or any rule adopted under those

sections, for failing to comply with any provision of or duty 4413
 arising under an agreement with a buyer or lender under sections 4414
 1322.01 to 1322.12 of the Revised Code, or for violating any other 4415
 provision of state or federal law. 4416

(G) A buyer injured by a violation of any of the sections 4417
 specified in division (A)(1) of this section is precluded from 4418
 recovering any damages, plus reasonable attorney's fees and costs, 4419
 if the buyer has also recovered any damages in a cause of action 4420
 initiated under section 1322.081 of the Revised Code and the 4421
 recovery of damages for a violation of any of the sections 4422
 specified in division (A)(1) of this section is based on the same 4423
 acts or circumstances as the basis for recovery of damages in 4424
 section 1322.081 of the Revised Code. 4425

Sec. 1322.99. (A) Whoever violates division (A)(1) or (2) of 4426
 section 1322.02, division (E), (F), or (G) of section 1322.07, 4427
 division (B)(1) or (2) of section 1322.071, or section 1322.08 of 4428
 the Revised Code is guilty of a felony of the fifth degree. 4429

(B) Whoever violates division (B)(3) of section 1322.071 of 4430
 the Revised Code is guilty of a felony of the fourth degree. 4431

(C) Whoever violates division (B) or (C)(2) of section 4432
 1322.02 of the Revised Code is guilty of a misdemeanor of the 4433
 first degree." 4434

Between lines 22542 and 22543, insert: 4435

"Sec. 1343.011. (A) As used in this section: 4436

(1) "Discount points" means any charges, whether or not 4437
 actually denominated as "discount points," that are paid by the 4438
 seller or the buyer of residential real property to a residential 4439
 mortgage lender or that are deducted and retained by a residential 4440
 mortgage lender from the proceeds of the residential mortgage. 4441

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

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

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

(B) Except residential mortgage loans described in division
 (B)(3) of section 1343.01 of the Revised Code, no residential
 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 4473
 refinancing of a residential mortgage obligation of less than 4474
 seventy-five thousand dollars that is made or arranged by a 4475
 mortgage broker, loan ~~officer~~ originator, or nonbank mortgage 4476
 lender, as those terms are defined in section 1345.01 of the 4477
 Revised Code, and that is secured by a mortgage on a borrower's 4478
 real estate that is a first lien on the real estate. 4479

(b) The amount specified in division (C) (2) (a) of this 4480
 section shall be adjusted annually on the first day of January by 4481
 the annual percentage change in the consumer price index for all 4482
 urban consumers, midwest region, all items, as determined by the 4483
 bureau of labor statistics of the United States department of 4484
 labor or, if that index is no longer published, a generally 4485
 available comparable index, as reported on the first day of June 4486
 of the year preceding the adjustment. The department of commerce 4487
 shall publish the adjusted amounts on its official web site. 4488

Sec. 1345.01. As used in sections 1345.01 to 1345.13 of the 4489
 Revised Code: 4490

(A) "Consumer transaction" means a sale, lease, assignment, 4491
 award by chance, or other transfer of an item of goods, a service, 4492
 a franchise, or an intangible, to an individual for purposes that 4493
 are primarily personal, family, or household, or solicitation to 4494
 supply any of these things. "Consumer transaction" does not 4495
 include transactions between persons, defined in sections 4905.03 4496
 and 5725.01 of the Revised Code, and their customers, except for 4497
 transactions involving a loan made pursuant to sections 1321.35 to 4498
 1321.48 of the Revised Code and transactions in connection with 4499
 residential mortgages between loan ~~officers~~ originators, mortgage 4500
 brokers, or nonbank mortgage lenders and their customers; 4501
 transactions between certified public accountants or public 4502
 accountants and their clients; transactions between attorneys, 4503

physicians, or dentists and their clients or patients; and 4504
transactions between veterinarians and their patients that pertain 4505
to medical treatment but not ancillary services. 4506

(B) "Person" includes an individual, corporation, government, 4507
governmental subdivision or agency, business trust, estate, trust, 4508
partnership, association, cooperative, or other legal entity. 4509

(C) "Supplier" means a seller, lessor, assignor, franchisor, 4510
or other person engaged in the business of effecting or soliciting 4511
consumer transactions, whether or not the person deals directly 4512
with the consumer. If the consumer transaction is in connection 4513
with a residential mortgage, "supplier" does not include an 4514
assignee or purchaser of the loan for value, except as otherwise 4515
provided in section 1345.091 of the Revised Code. For purposes of 4516
this division, in a consumer transaction in connection with a 4517
residential mortgage, "seller" means a loan ~~officer~~ originator, 4518
mortgage broker, or nonbank mortgage lender. 4519

(D) "Consumer" means a person who engages in a consumer 4520
transaction with a supplier. 4521

(E) "Knowledge" means actual awareness, but such actual 4522
awareness may be inferred where objective manifestations indicate 4523
that the individual involved acted with such awareness. 4524

(F) "Natural gas service" means the sale of natural gas, 4525
exclusive of any distribution or ancillary service. 4526

(G) "Public telecommunications service" means the 4527
transmission by electromagnetic or other means, other than by a 4528
telephone company as defined in section 4927.01 of the Revised 4529
Code, of signs, signals, writings, images, sounds, messages, or 4530
data originating in this state regardless of actual call routing. 4531
"Public telecommunications service" excludes a system, including 4532
its construction, maintenance, or operation, for the provision of 4533
telecommunications service, or any portion of such service, by any 4534

entity for the sole and exclusive use of that entity, its parent, 4535
 a subsidiary, or an affiliated entity, and not for resale, 4536
 directly or indirectly; the provision of terminal equipment used 4537
 to originate telecommunications service; broadcast transmission by 4538
 radio, television, or satellite broadcast stations regulated by 4539
 the federal government; or cable television service. 4540

(H) "~~Loan officer~~ originator" has the same meaning as in 4541
 section 1322.01 of the Revised Code, and includes a "mortgage loan 4542
originator" as defined in section 1321.51 of the Revised Code, 4543
 except that it does not include an employee of a bank, savings 4544
 bank, savings and loan association, credit union, or credit union 4545
 service organization organized under the laws of this state, 4546
 another state, or the United States; an employee of a subsidiary 4547
 of such a bank, savings bank, savings and loan association, or 4548
 credit union; or an employee of an affiliate that (1) controls, is 4549
 controlled by, or is under common control with, such a bank, 4550
 savings bank, savings and loan association, or credit union and 4551
 (2) is subject to examination, supervision, and regulation, 4552
 including with respect to the affiliate's compliance with 4553
 applicable consumer protection requirements, by the board of 4554
 governors of the federal reserve system, the comptroller of the 4555
 currency, the office of thrift supervision, the federal deposit 4556
 insurance corporation, or the national credit union 4557
 administration. 4558

(I) "Residential mortgage" or "mortgage" means an obligation 4559
 to pay a sum of money evidenced by a note and secured by a lien 4560
 upon real property located within this state containing two or 4561
 fewer residential units or on which two or fewer residential units 4562
 are to be constructed and includes such an obligation on a 4563
 residential condominium or cooperative unit. 4564

(J) "Mortgage broker" has the same meaning as in section 4565

1322.01 of the Revised Code, except that it does not include a 4566
bank, savings bank, savings and loan association, credit union, or 4567
credit union service organization organized under the laws of this 4568
state, another state, or the United States; a subsidiary of such a 4569
bank, savings bank, savings and loan association, or credit union; 4570
an affiliate that (1) controls, is controlled by, or is under 4571
common control with, such a bank, savings bank, savings and loan 4572
association, or credit union and (2) is subject to examination, 4573
supervision, and regulation, including with respect to the 4574
affiliate's compliance with applicable consumer protection 4575
requirements, by the board of governors of the federal reserve 4576
system, the comptroller of the currency, the office of thrift 4577
supervision, the federal deposit insurance corporation, or the 4578
national credit union administration; or an employee of any such 4579
entity. 4580

(K) "Nonbank mortgage lender" means any person that engages 4581
in a consumer transaction in connection with a residential 4582
mortgage, except for a bank, savings bank, savings and loan 4583
association, credit union, or credit union service organization 4584
organized under the laws of this state, another state, or the 4585
United States; a subsidiary of such a bank, savings bank, savings 4586
and loan association, or credit union; or an affiliate that (1) 4587
controls, is controlled by, or is under common control with, such 4588
a bank, savings bank, savings and loan association, or credit 4589
union and (2) is subject to examination, supervision, and 4590
regulation, including with respect to the affiliate's compliance 4591
with applicable consumer protection requirements, by the board of 4592
governors of the federal reserve system, the comptroller of the 4593
currency, the office of thrift supervision, the federal deposit 4594
insurance corporation, or the national credit union 4595
administration. 4596

(L) For purposes of divisions (H), (J), and (K) of this section: 4597
4598

(1) "Control" of another entity means ownership, control, or power to vote twenty-five per cent or more of the outstanding shares of any class of voting securities of the other entity, directly or indirectly or acting through one or more other persons. 4599
4600
4601
4602
4603

(2) "Credit union service organization" means a CUSO as defined in 12 C.F.R. 702.2. 4604
4605

Sec. 1345.05. (A) The attorney general shall: 4606

(1) Adopt, amend, and repeal procedural rules; 4607

(2) Adopt as a rule a description of the organization of the attorney general's office, stating the general courses and methods of operation of the section of the office of the attorney general, which is to administer Chapter 1345. of the Revised Code and methods whereby the public may obtain information or make submissions or requests, including a description of all forms and instructions used by that office; 4608
4609
4610
4611
4612
4613
4614

(3) Make available for public inspection all rules and all other written statements of policy or interpretations adopted or used by the attorney general in the discharge of the attorney general's functions, together with all judgments, including supporting opinions, by courts of this state that determine the rights of the parties and concerning which appellate remedies have been exhausted, or lost by the expiration of the time for appeal, determining that specific acts or practices violate section 1345.02, 1345.03, or 1345.031 of the Revised Code; 4615
4616
4617
4618
4619
4620
4621
4622
4623

(4) Inform consumers and suppliers on a continuing basis of acts or practices that violate Chapter 1345. of the Revised Code 4624
4625

by, among other things, publishing an informational document 4626
 describing acts and practices in connection with residential 4627
 mortgages that are unfair, deceptive, or unconscionable, and by 4628
 making that information available on the attorney general's 4629
 official web site; 4630

(5) Cooperate with state and local officials, officials of 4631
 other states, and officials of the federal government in the 4632
 administration of comparable statutes; 4633

(6) Report annually on or before the first day of January to 4634
 the governor and the general assembly on the operations of the 4635
 attorney general in respect to Chapter 1345. of the Revised Code, 4636
 and on the acts or practices occurring in this state that violate 4637
 such chapter. The report shall include a statement of 4638
 investigatory and enforcement procedures and policies, of the 4639
 number of investigations and enforcement proceedings instituted 4640
 and of their disposition, and of other activities of the state and 4641
 of other persons to promote the purposes of Chapter 1345. of the 4642
 Revised Code. 4643

(7) In carrying out official duties, the attorney general 4644
 shall not disclose publicly the identity of suppliers investigated 4645
 or the facts developed in investigations unless these matters have 4646
 become a matter of public record in enforcement proceedings, in 4647
 public hearings conducted pursuant to division (B)(1) of this 4648
 section, or the suppliers investigated have consented in writing 4649
 to public disclosure. 4650

(B) The attorney general may: 4651

(1) Conduct research, make inquiries, hold public hearings, 4652
 and publish studies relating to consumer transactions; 4653

(2) Adopt, amend, and repeal substantive rules defining with 4654
 reasonable specificity acts or practices that violate sections 4655

1345.02, 1345.03, and 1345.031 of the Revised Code. In adopting, amending, or repealing substantive rules defining acts or practices that violate section 1345.02 of the Revised Code, due consideration and great weight shall be given to federal trade commission orders, trade regulation rules and guides, and the federal courts' interpretations of subsection 45 (a)(1) of the "Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 41, as amended.

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

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

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

discovered through that testimony or matter. 4687

(E) Any person may petition the attorney general requesting 4688
the adoption, amendment, or repeal of a rule. The attorney general 4689
shall prescribe by rule the form for such petitions and the 4690
procedure for their submission, consideration, and disposition. 4691
Within sixty days of submission of a petition, the attorney 4692
general shall either deny the petition in writing, stating the 4693
reasons for the denial, or initiate rule-making proceedings. There 4694
is no right to appeal from such denial of a petition. 4695

(F) All rules shall be adopted subject to Chapter 119. of the 4696
Revised Code. 4697

(G) The informational document published in accordance with 4698
division (A)(4) of this section shall be made available for 4699
distribution to consumers who are applying for a mortgage loan. An 4700
acknowledgement of receipt shall be retained by the lender, 4701
mortgage broker, and loan ~~officer~~ originator, as applicable, 4702
subject to review by the attorney general and the department of 4703
commerce. 4704

Sec. 1345.09. For a violation of Chapter 1345. of the Revised 4705
Code, a consumer has a cause of action and is entitled to relief 4706
as follows: 4707

(A) Where the violation was an act prohibited by section 4708
1345.02, 1345.03, or 1345.031 of the Revised Code, the consumer 4709
may, in an individual action, rescind the transaction or recover 4710
the consumer's actual economic damages plus an amount not 4711
exceeding five thousand dollars in noneconomic damages. 4712

(B) Where the violation was an act or practice declared to be 4713
deceptive or unconscionable by rule adopted under division (B)(2) 4714
of section 1345.05 of the Revised Code before the consumer 4715
transaction on which the action is based, or an act or practice 4716

determined by a court of this state to violate section 1345.02, 4717
1345.03, or 1345.031 of the Revised Code and committed after the 4718
decision containing the determination has been made available for 4719
public inspection under division (A) (3) of section 1345.05 of the 4720
Revised Code, the consumer may rescind the transaction or recover, 4721
but not in a class action, three times the amount of the 4722
consumer's actual economic damages or two hundred dollars, 4723
whichever is greater, plus an amount not exceeding five thousand 4724
dollars in noneconomic damages or recover damages or other 4725
appropriate relief in a class action under Civil Rule 23, as 4726
amended. 4727

(C) (1) Except as otherwise provided in division (C) (2) of 4728
this section, in any action for rescission, revocation of the 4729
consumer transaction must occur within a reasonable time after the 4730
consumer discovers or should have discovered the ground for it and 4731
before any substantial change in condition of the subject of the 4732
consumer transaction. 4733

(2) If a consumer transaction between a loan ~~officer~~ 4734
originator, mortgage broker, or nonbank mortgage lender and a 4735
customer is in connection with a residential mortgage, revocation 4736
of the consumer transaction in an action for rescission is only 4737
available to a consumer in an individual action, and shall occur 4738
for no reason other than one or more of the reasons set forth in 4739
the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C. 1635, 4740
not later than the time limit within which the right of rescission 4741
under section 125(f) of the "Truth in Lending Act" expires. 4742

(D) Any consumer may seek a declaratory judgment, an 4744
injunction, or other appropriate relief against an act or practice 4745
that violates this chapter. 4746

(E) When a consumer commences an individual action for a 4747

declaratory judgment or an injunction or a class action under this 4748
section, the clerk of court shall immediately mail a copy of the 4749
complaint to the attorney general. Upon timely application, the 4750
attorney general may be permitted to intervene in any private 4751
action or appeal pending under this section. When a judgment under 4752
this section becomes final, the clerk of court shall mail a copy 4753
of the judgment including supporting opinions to the attorney 4754
general for inclusion in the public file maintained under division 4755
(A) (3) of section 1345.05 of the Revised Code. 4756

(F) The court may award to the prevailing party a reasonable 4757
attorney's fee limited to the work reasonably performed, if either 4758
of the following apply: 4759

(1) The consumer complaining of the act or practice that 4760
violated this chapter has brought or maintained an action that is 4761
groundless, and the consumer filed or maintained the action in bad 4762
faith; 4763

(2) The supplier has knowingly committed an act or practice 4764
that violates this chapter. 4765

(G) As used in this section, "actual economic damages" means 4766
damages for direct, incidental, or consequential pecuniary losses 4767
resulting from a violation of Chapter 1345. of the Revised Code 4768
and does not include damages for noneconomic loss as defined in 4769
section 2315.18 of the Revised Code. 4770

(H) Nothing in this section shall preclude a consumer from 4771
also proceeding with a cause of action under any other theory of 4772
law." 4773

Between lines 22595 and 22596, insert: 4774

"Sec. 1349.31. (A) (1) No creditor shall willfully and 4775
knowingly fail to comply with section 1349.26 or 1349.27 of the 4776

Revised Code. For purposes of division (A)(1) of this section, 4777
"willfully and knowingly" has the same meaning as in section 112 4778
of the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C.A. 4779
1611, as amended. 4780

(2) Whoever violates division (A)(1) of this section is 4781
guilty of a felony of the fifth degree. 4782

(B) The superintendent of financial institutions may directly 4783
bring an action to enjoin a violation of this section. The 4784
attorney general may directly bring an action against a mortgage 4785
broker, loan ~~officer~~ originator, or nonbank mortgage lender to 4786
enjoin a violation of this section with the same rights, 4787
privileges, and powers as those described in section 1345.06 of 4788
the Revised Code. The prosecuting attorney of the county in which 4789
the action may be brought may bring an action against a mortgage 4790
broker, loan ~~officer~~ originator, or nonbank mortgage lender to 4791
enjoin a violation of this section only if the prosecuting 4792
attorney first presents any evidence of the violation to the 4793
attorney general and, within a reasonable period of time, the 4794
attorney general has not agreed to bring the action. 4795

For purposes of this division, "loan ~~officer~~ originator," 4796
"mortgage broker," and "nonbank mortgage lender" have the same 4797
meanings as in section 1345.01 of the Revised Code. 4798

(C)(1) The superintendent of financial institutions may 4799
initiate criminal proceedings under this section by presenting any 4800
evidence of criminal violations to the prosecuting attorney of the 4801
county in which the offense may be prosecuted. If the prosecuting 4802
attorney does not prosecute the violations, or at the request of 4803
the prosecuting attorney, the superintendent shall present any 4804
evidence of criminal violations to the attorney general, who may 4805
proceed in the prosecution with all the rights, privileges, and 4806
powers conferred by law on prosecuting attorneys, including the 4807

power to appear before grand juries and to interrogate witnesses 4808
 before such grand juries. These powers of the attorney general 4809
 shall be in addition to any other applicable powers of the 4810
 attorney general. 4811

(2) The prosecuting attorney of the county in which an 4812
 alleged offense may be prosecuted may initiate criminal 4813
 proceedings under this section. 4814

(3) In order to initiate criminal proceedings under this 4815
 section, the attorney general shall first present any evidence of 4816
 criminal violations to the prosecuting attorney of the county in 4817
 which the alleged offense may be prosecuted. If, within a 4818
 reasonable period of time, the prosecuting attorney has not agreed 4819
 to prosecute the violations, the attorney general may proceed in 4820
 the prosecution with all the rights, privileges, and powers 4821
 described in division (C)(1) of this section. 4822

Sec. 1349.43. (A) As used in this section, "loan ~~officer~~ 4823
originator," "mortgage broker," and "nonbank mortgage lender" have 4824
 the same meanings as in section 1345.01 of the Revised Code. 4825

(B) The department of commerce shall establish and maintain 4826
 an electronic database accessible through the internet that 4827
 contains information on all of the following: 4828

(1) The enforcement actions taken by the superintendent of 4829
 financial institutions for each violation of or failure to comply 4830
 with any provision of sections 1322.01 to 1322.12 of the Revised 4831
 Code, upon final disposition of the action; 4832

(2) The enforcement actions taken by the attorney general 4833
 under Chapter 1345. of the Revised Code against loan ~~officers~~ 4834
originators, mortgage brokers, and nonbank mortgage lenders, upon 4835
 final disposition of each action; 4836

(3) All judgments by courts of this state, concerning which 4837
 appellate remedies have been exhausted or lost by the expiration 4838
 of the time for appeal, finding either of the following: 4839

(a) A violation of any provision of sections 1322.01 to 4840
 1322.12 of the Revised Code; 4841

(b) That specific acts or practices by a loan ~~officer~~ 4842
originator, mortgage broker, or nonbank mortgage lender violate 4843
 section 1345.02, 1345.03, or 1345.031 of the Revised Code. 4844

(C) The attorney general shall submit to the department, on 4845
 the first day of each January, April, July, and October, a list of 4846
 all enforcement actions and judgments described in divisions 4847
 (B) (2) and (3) (b) of this section. 4848

(D) The department may adopt rules in accordance with Chapter 4849
 119. of the Revised Code that are necessary to implement this 4850
 section. 4851

(E) The electronic database maintained by the department in 4852
 accordance with this section shall not include information that, 4853
 pursuant to section 1322.061 of the Revised Code, is 4854
 confidential." 4855

Between lines 27282 and 27283, insert: 4856

"Sec. 1733.252. (A) As used in this section, "nationwide 4857
 mortgage licensing system and registry" has the same meaning as in 4858
 section 1322.01 of the Revised Code. 4859

(B) Subject to division (C) of this section, each credit 4860
 union, the subsidiaries of the credit union, and the loan 4861
 originators employed by the credit union, shall comply with the 4862
 "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 4863
 122 Stat. 2810, 12 U.S.C. 5101, and register with the nationwide 4864
 mortgage licensing system and registry. 4865

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

Sec. 1733.26. (A) The credit committee may be delegated the authority to appoint one or more loan officers, and delegate to them power to approve loans within limits fixed by the regulations, bylaws, or resolutions of the board of directors. If the regulations so provide, the board may appoint one or more loan officers, and delegate to them the power to approve loans within limits fixed by the regulations, bylaws, or resolutions of the board. The authority of loan officers may also be further restricted by policies established by the credit committee or the board. Such loan officers also may be loan originators registered with the nationwide mortgage licensing system and registry as provided in section 1733.252 of the Revised Code.

(B) Each loan officer appointed pursuant to division (A) of this section shall, within seven days of the filing of each loan application received by ~~him~~ the loan officer from a member or by referral from another officer, furnish to the credit committee or to the board, whichever is applicable, a record of such application and ~~his~~ the loan officer's disposition or recommendation for disposition of it. No person shall have

authority to disburse funds of the credit union for any loan which 4897
has been approved by ~~him~~ the loan officer in ~~his~~ the capacity as a 4898
loan officer. 4899

(C) If the regulations provide for a credit committee, all 4900
applications for loans not approved by a loan officer may be 4901
reviewed by the credit committee, and the approval of the majority 4902
of the members of the committee who are present at the meeting 4903
when the review is undertaken shall be required to reverse the 4904
decision of the loan officer, provided that a majority of the full 4905
committee is present. 4906

In the absence of a credit committee, the board shall, upon 4907
the written request of a member, review a loan application denied 4908
by a loan officer." 4909

In line 90822, after "955.201," insert "1321.20, 1321.51, 4910
1321.52, 1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 1321.59, 4911
1321.60, 1321.99, 1322.01, 1322.02," 4912

In line 90823, after "1322.041," insert "1322.05, 1322.051, 4913
1322.052, 1322.06, 1322.061, 1322.062, 1322.063, 1322.064, 4914
1322.07, 1322.071, 1322.072, 1322.074, 1322.075, 1322.08, 4915
1322.081, 1322.09, 1322.10, 1322.11, 1322.99,"; after "1332.25," 4916
insert "1343.011, 1345.01, 1345.05, 1345.09,"; after "1349.22," 4917
insert "1349.31, 1349.43," 4918

In line 90834, after "1721.211," insert "1733.26," 4919

Between lines 105571 and 105572, insert: 4920

"Section 745.60. (A) Sections 1321.20, 1321.51, 1321.52, 4921
1321.521, 1321.522, 1321.53, 1321.531, 1321.532, 1321.533, 4922
1321.534, 1321.535, 1321.536, 1321.54, 1321.55, 1321.551, 4923
1321.552, 1321.57, 1321.59, 1321.591, 1321.592, 1321.593, 4924
1321.594, 1321.60, 1321.99, 1322.01, 1322.02, 1322.022, 1322.023, 4925
1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 1322.041, 1322.05, 4926

1322.051, 1322.052, 1322.06, 1322.061, 1322.062, 1322.063, 4927
 1322.064, 1322.065, 1322.07, 1322.071, 1322.072, 1322.074, 4928
 1322.075, 1322.08, 1322.081, 1322.09, 1322.10, 1322.11, 1322.99, 4929
 1343.011, 1345.01, 1345.05, 1345.09, 1349.31, 1349.43, 1733.252, 4930
 and 1733.26 of the Revised Code, as amended or enacted by this 4931
 act, shall apply on and after January 1, 2010. 4932

(B) The Division of Financial Institutions shall begin 4933
 accepting applications for a mortgage loan originator license, and 4934
 applications for an exemption from registration under sections 4935
 1321.51 to 1321.60 or 1322.01 to 1322.12 of the Revised Code, on 4936
 the effective date of this section. 4937

(C) Individuals holding a valid mortgage lender certificate 4938
 of registration, mortgage broker certificate of registration, or 4939
 loan officer license as of January 1, 2010, shall not be required 4940
 to be in compliance with the sections described in division (A) of 4941
 this section until the first renewal of that certificate or 4942
 license after that date." 4943

In line 106560, after "701.20," insert "745.60," 4944

In line 37 of the title, after "955.201," insert "1321.20, 4945
 1321.51, 1321.52, 1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 4946
 1321.59, 1321.60, 1321.99, 1322.01, 1322.02," 4947

In line 38 of the title, after "1322.041," insert "1322.05, 4948
 1322.051, 1322.052, 1322.06, 1322.061, 1322.062, 1322.063, 4949
 1322.064, 1322.07, 1322.071, 1322.072, 1322.074, 1322.075, 4950
 1322.08, 1322.081, 1322.09, 1322.10, 1322.11, 1322.99,"; after 4951
 "1332.25," insert "1343.011, 1345.01, 1345.05, 1345.09,"; after 4952
 "1349.22," insert "1349.31, 1349.43," 4953

In line 54 of the title, after "1721.211," insert "1733.26," 4954

In line 194 of the title, after "927.54," insert "1321.521, 4955
 1321.522, 1321.531, 1321.532, 1321.533, 1321.534, 1321.535, 4956

1321.536, 1321.552, 1321.591, 1321.592, 1321.593, 1321.594, 4957
 1322.022, 1322.023, 1322.024, 1322.025, 1322.065,"; after 4958
 "1545.073," insert "1733.252," 4959

The motion was _____ agreed to.

SYNOPSIS

Mortgage Lending Laws 4960

R.C. 109.572, 1321.20, 1321.51, 1321.52, 1321.521, 1321.522, 4961
 1321.53, 1321.531, 1321.532, 1321.533, 1321.534, 1321.535, 4962
 1321.536, 1321.54, 1321.55, 1321.551, 1321.552, 1321.57, 1321.59, 4963
 1321.591, 1321.592, 1321.593, 1321.594, 1321.60, 1321.99, 1322.01, 4964
 1322.02, 1322.022, 1322.023, 1322.024, 1322.025, 1322.03, 4965
 1322.031, 1322.04, 1322.041, 1322.05, 1322.051, 1322.052, 1322.06, 4966
 1322.061, 1322.062, 1322.063, 1322.064, 1322.065, 1322.07, 4967
 1322.071, 1322.072, 1322.074, 1322.075, 1322.08, 1322.081, 4968
 1322.09, 1322.10, 1322.11, 1322.50, 1343.011, 1345.01, 1345.05, 4969
 1345.09, 1349.31, 1349.43, 1733.252, and 1733.26; Section 745.60 4970

Makes changes to the Mortgage Loan Law (R.C. 1321.51 to 4971
 1321.60) with respect to the regulation of mortgage lenders; also 4972
 makes changes relative to the implementation of the federal Secure 4973
 and Fair Enforcement for Mortgage Licensing Act of 2008 ("S.A.F.E. 4974
 Act") by, among other things, requiring the licensing of "mortgage 4975
 loan originators" who are employed by or associated with a 4976
 mortgage lender. 4977

Makes changes to the Mortgage Brokers Law (R.C. 1322.01 to 4978
 1322.12) with respect to the regulation of mortgage brokers; also 4979
 makes changes relative to the implementation of the "S.A.F.E. Act" 4980
 by, among other things, requiring the licensing of "loan 4981

originators" who are employed by or associated with a mortgage broker; eliminates the licensing of "loan officers." 4982
4983

Retains the application and renewal fee increases for mortgage brokers and loan originators. 4984
4985

Requires credit unions, their subsidiaries, and the loan originators employed by them to comply with the "S.A.F.E. Act." 4986
4987