

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 187

Representatives Driehaus, Foley

**Cosponsors: Representatives Hagan, R., Murray, Letson, Williams, Antonio,
Yuko, Boyd, Fedor, Lundy, Ramos, Clyde**

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A B I L L

To amend sections 109.572, 1181.05, 1181.21, and 1
1321.52 and to enact sections 1323.01 to 1323.20 2
and 1323.99 of the Revised Code to require 3
registration of residential mortgage servicers, to 4
regulate residential mortgage servicers, and to 5
adopt civil and criminal penalties for violations 6
of the bill's provisions. 7

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

Section 1. That sections 109.572, 1181.05, 1181.21, and 8
1321.52 be amended and sections 1323.01, 1323.02, 1323.03, 9
1323.04, 1323.05, 1323.06, 1323.07, 1323.08, 1323.09, 1323.10, 10
1323.11, 1323.12, 1323.13, 1323.14, 1323.15, 1323.16, 1323.17, 11
1323.18, 1323.19, 1323.20, and 1323.99 of the Revised Code be 12
enacted to read as follows: 13

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 14
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 15
a completed form prescribed pursuant to division (C)(1) of this 16
section, and a set of fingerprint impressions obtained in the 17
manner described in division (C)(2) of this section, the 18

superintendent of the bureau of criminal identification and 19
investigation shall conduct a criminal records check in the manner 20
described in division (B) of this section to determine whether any 21
information exists that indicates that the person who is the 22
subject of the request previously has been convicted of or pleaded 23
guilty to any of the following: 24

(a) A violation of section 2903.01, 2903.02, 2903.03, 25
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 26
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 27
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 28
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 29
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 30
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 31
2925.06, or 3716.11 of the Revised Code, felonious sexual 32
penetration in violation of former section 2907.12 of the Revised 33
Code, a violation of section 2905.04 of the Revised Code as it 34
existed prior to July 1, 1996, a violation of section 2919.23 of 35
the Revised Code that would have been a violation of section 36
2905.04 of the Revised Code as it existed prior to July 1, 1996, 37
had the violation been committed prior to that date, or a 38
violation of section 2925.11 of the Revised Code that is not a 39
minor drug possession offense; 40

(b) A violation of an existing or former law of this state, 41
any other state, or the United States that is substantially 42
equivalent to any of the offenses listed in division (A)(1)(a) of 43
this section. 44

(2) On receipt of a request pursuant to section 5123.081 of 45
the Revised Code with respect to an applicant for employment in 46
any position with the department of developmental disabilities, 47
pursuant to section 5126.28 of the Revised Code with respect to an 48
applicant for employment in any position with a county board of 49
developmental disabilities, or pursuant to section 5126.281 of the 50

Revised Code with respect to an applicant for employment in a 51
direct services position with an entity contracting with a county 52
board for employment, a completed form prescribed pursuant to 53
division (C)(1) of this section, and a set of fingerprint 54
impressions obtained in the manner described in division (C)(2) of 55
this section, the superintendent of the bureau of criminal 56
identification and investigation shall conduct a criminal records 57
check. The superintendent shall conduct the criminal records check 58
in the manner described in division (B) of this section to 59
determine whether any information exists that indicates that the 60
person who is the subject of the request has been convicted of or 61
pleaded guilty to any of the following: 62

(a) A violation of section 2903.01, 2903.02, 2903.03, 63
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 64
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 65
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 66
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 67
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 68
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 69
2925.03, or 3716.11 of the Revised Code; 70

(b) An existing or former municipal ordinance or law of this 71
state, any other state, or the United States that is substantially 72
equivalent to any of the offenses listed in division (A)(2)(a) of 73
this section. 74

(3) On receipt of a request pursuant to section 173.27, 75
173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a 76
completed form prescribed pursuant to division (C)(1) of this 77
section, and a set of fingerprint impressions obtained in the 78
manner described in division (C)(2) of this section, the 79
superintendent of the bureau of criminal identification and 80
investigation shall conduct a criminal records check with respect 81
to any person who has applied for employment in a position for 82

which a criminal records check is required by those sections. The 83
superintendent shall conduct the criminal records check in the 84
manner described in division (B) of this section to determine 85
whether any information exists that indicates that the person who 86
is the subject of the request previously has been convicted of or 87
pleaded guilty to any of the following: 88

(a) A violation of section 2903.01, 2903.02, 2903.03, 89
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 90
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 91
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 92
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 93
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 94
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 95
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 96
2925.22, 2925.23, or 3716.11 of the Revised Code; 97

(b) An existing or former law of this state, any other state, 98
or the United States that is substantially equivalent to any of 99
the offenses listed in division (A)(3)(a) of this section. 100

(4) On receipt of a request pursuant to section 3701.881 of 101
the Revised Code with respect to an applicant for employment with 102
a home health agency as a person responsible for the care, 103
custody, or control of a child, a completed form prescribed 104
pursuant to division (C)(1) of this section, and a set of 105
fingerprint impressions obtained in the manner described in 106
division (C)(2) of this section, the superintendent of the bureau 107
of criminal identification and investigation shall conduct a 108
criminal records check. The superintendent shall conduct the 109
criminal records check in the manner described in division (B) of 110
this section to determine whether any information exists that 111
indicates that the person who is the subject of the request 112
previously has been convicted of or pleaded guilty to any of the 113
following: 114

(a) A violation of section 2903.01, 2903.02, 2903.03, 115
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 116
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 117
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 118
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 119
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 120
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 121
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 122
violation of section 2925.11 of the Revised Code that is not a 123
minor drug possession offense; 124

(b) An existing or former law of this state, any other state, 125
or the United States that is substantially equivalent to any of 126
the offenses listed in division (A)(4)(a) of this section. 127

(5) On receipt of a request pursuant to section 5111.032, 128
5111.033, or 5111.034 of the Revised Code, a completed form 129
prescribed pursuant to division (C)(1) of this section, and a set 130
of fingerprint impressions obtained in the manner described in 131
division (C)(2) of this section, the superintendent of the bureau 132
of criminal identification and investigation shall conduct a 133
criminal records check. The superintendent shall conduct the 134
criminal records check in the manner described in division (B) of 135
this section to determine whether any information exists that 136
indicates that the person who is the subject of the request 137
previously has been convicted of, has pleaded guilty to, or has 138
been found eligible for intervention in lieu of conviction for any 139
of the following, regardless of the date of the conviction, the 140
date of entry of the guilty plea, or the date the person was found 141
eligible for intervention in lieu of conviction: 142

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 143
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 144
2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 145
2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 146

2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 147
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 148
2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01, 149
2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 150
2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 151
2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 152
2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11, 153
2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 154
2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 155
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 156
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 157
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 158
penetration in violation of former section 2907.12 of the Revised 159
Code, a violation of section 2905.04 of the Revised Code as it 160
existed prior to July 1, 1996, a violation of section 2919.23 of 161
the Revised Code that would have been a violation of section 162
2905.04 of the Revised Code as it existed prior to July 1, 1996, 163
had the violation been committed prior to that date; 164

(b) A violation of an existing or former municipal ordinance 165
or law of this state, any other state, or the United States that 166
is substantially equivalent to any of the offenses listed in 167
division (A)(5)(a) of this section. 168

(6) On receipt of a request pursuant to section 3701.881 of 169
the Revised Code with respect to an applicant for employment with 170
a home health agency in a position that involves providing direct 171
care to an older adult, a completed form prescribed pursuant to 172
division (C)(1) of this section, and a set of fingerprint 173
impressions obtained in the manner described in division (C)(2) of 174
this section, the superintendent of the bureau of criminal 175
identification and investigation shall conduct a criminal records 176
check. The superintendent shall conduct the criminal records check 177
in the manner described in division (B) of this section to 178

determine whether any information exists that indicates that the 179
person who is the subject of the request previously has been 180
convicted of or pleaded guilty to any of the following: 181

(a) A violation of section 2903.01, 2903.02, 2903.03, 182
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 183
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 184
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 185
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 186
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 187
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 188
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 189
2925.22, 2925.23, or 3716.11 of the Revised Code; 190

(b) An existing or former law of this state, any other state, 191
or the United States that is substantially equivalent to any of 192
the offenses listed in division (A)(6)(a) of this section. 193

(7) When conducting a criminal records check upon a request 194
pursuant to section 3319.39 of the Revised Code for an applicant 195
who is a teacher, in addition to the determination made under 196
division (A)(1) of this section, the superintendent shall 197
determine whether any information exists that indicates that the 198
person who is the subject of the request previously has been 199
convicted of or pleaded guilty to any offense specified in section 200
3319.31 of the Revised Code. 201

(8) On receipt of a request pursuant to section 2151.86 of 202
the Revised Code, a completed form prescribed pursuant to division 203
(C)(1) of this section, and a set of fingerprint impressions 204
obtained in the manner described in division (C)(2) of this 205
section, the superintendent of the bureau of criminal 206
identification and investigation shall conduct a criminal records 207
check in the manner described in division (B) of this section to 208
determine whether any information exists that indicates that the 209
person who is the subject of the request previously has been 210

convicted of or pleaded guilty to any of the following: 211

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 212
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 213
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 214
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 215
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 216
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 217
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 218
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 219
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 220
of the Revised Code, a violation of section 2905.04 of the Revised 221
Code as it existed prior to July 1, 1996, a violation of section 222
2919.23 of the Revised Code that would have been a violation of 223
section 2905.04 of the Revised Code as it existed prior to July 1, 224
1996, had the violation been committed prior to that date, a 225
violation of section 2925.11 of the Revised Code that is not a 226
minor drug possession offense, two or more OVI or OVUAC violations 227
committed within the three years immediately preceding the 228
submission of the application or petition that is the basis of the 229
request, or felonious sexual penetration in violation of former 230
section 2907.12 of the Revised Code; 231

(b) A violation of an existing or former law of this state, 232
any other state, or the United States that is substantially 233
equivalent to any of the offenses listed in division (A)(8)(a) of 234
this section. 235

(9) Upon receipt of a request pursuant to section 5104.012 or 236
5104.013 of the Revised Code, a completed form prescribed pursuant 237
to division (C)(1) of this section, and a set of fingerprint 238
impressions obtained in the manner described in division (C)(2) of 239
this section, the superintendent of the bureau of criminal 240
identification and investigation shall conduct a criminal records 241
check in the manner described in division (B) of this section to 242

determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, a violation of section 2923.02 or 2923.03 of the Revised Code that relates to a crime specified in this division, or a second violation of section 4511.19 of the Revised Code within five years of the date of application for licensure or certification.

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

(10) Upon receipt of a request pursuant to section 5153.111

of the Revised Code, a completed form prescribed pursuant to 275
division (C)(1) of this section, and a set of fingerprint 276
impressions obtained in the manner described in division (C)(2) of 277
this section, the superintendent of the bureau of criminal 278
identification and investigation shall conduct a criminal records 279
check in the manner described in division (B) of this section to 280
determine whether any information exists that indicates that the 281
person who is the subject of the request previously has been 282
convicted of or pleaded guilty to any of the following: 283

(a) A violation of section 2903.01, 2903.02, 2903.03, 284
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 285
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 286
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 287
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 288
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 289
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 290
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 291
felonious sexual penetration in violation of former section 292
2907.12 of the Revised Code, a violation of section 2905.04 of the 293
Revised Code as it existed prior to July 1, 1996, a violation of 294
section 2919.23 of the Revised Code that would have been a 295
violation of section 2905.04 of the Revised Code as it existed 296
prior to July 1, 1996, had the violation been committed prior to 297
that date, or a violation of section 2925.11 of the Revised Code 298
that is not a minor drug possession offense; 299

(b) A violation of an existing or former law of this state, 300
any other state, or the United States that is substantially 301
equivalent to any of the offenses listed in division (A)(10)(a) of 302
this section. 303

(11) On receipt of a request for a criminal records check 304
from an individual pursuant to section 4749.03 or 4749.06 of the 305
Revised Code, accompanied by a completed copy of the form 306

prescribed in division (C)(1) of this section and a set of 307
fingerprint impressions obtained in a manner described in division 308
(C)(2) of this section, the superintendent of the bureau of 309
criminal identification and investigation shall conduct a criminal 310
records check in the manner described in division (B) of this 311
section to determine whether any information exists indicating 312
that the person who is the subject of the request has been 313
convicted of or pleaded guilty to a felony in this state or in any 314
other state. If the individual indicates that a firearm will be 315
carried in the course of business, the superintendent shall 316
require information from the federal bureau of investigation as 317
described in division (B)(2) of this section. The superintendent 318
shall report the findings of the criminal records check and any 319
information the federal bureau of investigation provides to the 320
director of public safety. 321

(12) On receipt of a request pursuant to section 1321.37, 322
1321.53, 1321.531, 1322.03, 1322.031, 1323.05, or 4763.05 of the 323
Revised Code, a completed form prescribed pursuant to division 324
(C)(1) of this section, and a set of fingerprint impressions 325
obtained in the manner described in division (C)(2) of this 326
section, the superintendent of the bureau of criminal 327
identification and investigation shall conduct a criminal records 328
check with respect to any person who has applied for a license, 329
permit, or certification from the department of commerce or a 330
division in the department. The superintendent shall conduct the 331
criminal records check in the manner described in division (B) of 332
this section to determine whether any information exists that 333
indicates that the person who is the subject of the request 334
previously has been convicted of or pleaded guilty to any of the 335
following: a violation of section 2913.02, 2913.11, 2913.31, 336
2913.51, or 2925.03 of the Revised Code; any other criminal 337
offense involving theft, receiving stolen property, embezzlement, 338
forgery, fraud, passing bad checks, money laundering, or drug 339

trafficking, or any criminal offense involving money or 340
securities, as set forth in Chapters 2909., 2911., 2913., 2915., 341
2921., 2923., and 2925. of the Revised Code; or any existing or 342
former law of this state, any other state, or the United States 343
that is substantially equivalent to those offenses. 344

(13) On receipt of a request for a criminal records check 345
from the treasurer of state under section 113.041 of the Revised 346
Code or from an individual under section 4701.08, 4715.101, 347
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 348
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 349
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 350
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 351
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 352
a completed form prescribed under division (C)(1) of this section 353
and a set of fingerprint impressions obtained in the manner 354
described in division (C)(2) of this section, the superintendent 355
of the bureau of criminal identification and investigation shall 356
conduct a criminal records check in the manner described in 357
division (B) of this section to determine whether any information 358
exists that indicates that the person who is the subject of the 359
request has been convicted of or pleaded guilty to any criminal 360
offense in this state or any other state. The superintendent shall 361
send the results of a check requested under section 113.041 of the 362
Revised Code to the treasurer of state and shall send the results 363
of a check requested under any of the other listed sections to the 364
licensing board specified by the individual in the request. 365

(14) On receipt of a request pursuant to section 1121.23, 366
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 367
Code, a completed form prescribed pursuant to division (C)(1) of 368
this section, and a set of fingerprint impressions obtained in the 369
manner described in division (C)(2) of this section, the 370
superintendent of the bureau of criminal identification and 371

investigation shall conduct a criminal records check in the manner 372
described in division (B) of this section to determine whether any 373
information exists that indicates that the person who is the 374
subject of the request previously has been convicted of or pleaded 375
guilty to any criminal offense under any existing or former law of 376
this state, any other state, or the United States. 377

(15) On receipt of a request for a criminal records check 378
from an appointing or licensing authority under section 3772.07 of 379
the Revised Code, a completed form prescribed under division 380
(C)(1) of this section, and a set of fingerprint impressions 381
obtained in the manner prescribed in division (C)(2) of this 382
section, the superintendent of the bureau of criminal 383
identification and investigation shall conduct a criminal records 384
check in the manner described in division (B) of this section to 385
determine whether any information exists that indicates that the 386
person who is the subject of the request previously has been 387
convicted of or pleaded guilty or no contest to any offense under 388
any existing or former law of this state, any other state, or the 389
United States that is a disqualifying offense as defined in 390
section 3772.07 of the Revised Code or substantially equivalent to 391
such an offense. 392

(16) Not later than thirty days after the date the 393
superintendent receives a request of a type described in division 394
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), 395
(14), or (15) of this section, the completed form, and the 396
fingerprint impressions, the superintendent shall send the person, 397
board, or entity that made the request any information, other than 398
information the dissemination of which is prohibited by federal 399
law, the superintendent determines exists with respect to the 400
person who is the subject of the request that indicates that the 401
person previously has been convicted of or pleaded guilty to any 402
offense listed or described in division (A)(1), (2), (3), (4), 403

(5), (6), (7), (8), (9), (10), (11), (12), (14), or (15) of this 404
section, as appropriate. The superintendent shall send the person, 405
board, or entity that made the request a copy of the list of 406
offenses specified in division (A)(1), (2), (3), (4), (5), (6), 407
(7), (8), (9), (10), (11), (12), (14), or (15) of this section, as 408
appropriate. If the request was made under section 3701.881 of the 409
Revised Code with regard to an applicant who may be both 410
responsible for the care, custody, or control of a child and 411
involved in providing direct care to an older adult, the 412
superintendent shall provide a list of the offenses specified in 413
divisions (A)(4) and (6) of this section. 414

Not later than thirty days after the superintendent receives 415
a request for a criminal records check pursuant to section 113.041 416
of the Revised Code, the completed form, and the fingerprint 417
impressions, the superintendent shall send the treasurer of state 418
any information, other than information the dissemination of which 419
is prohibited by federal law, the superintendent determines exist 420
with respect to the person who is the subject of the request that 421
indicates that the person previously has been convicted of or 422
pleaded guilty to any criminal offense in this state or any other 423
state. 424

(B) The superintendent shall conduct any criminal records 425
check requested under section 113.041, 121.08, 173.27, 173.394, 426
1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 427
1322.031, 1323.05, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 428
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 3772.07, 4701.08, 429
4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 430
4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 431
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 432
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 433
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 434
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 435

5126.281, or 5153.111 of the Revised Code as follows: 436

(1) The superintendent shall review or cause to be reviewed 437
any relevant information gathered and compiled by the bureau under 438
division (A) of section 109.57 of the Revised Code that relates to 439
the person who is the subject of the request, including, if the 440
criminal records check was requested under section 113.041, 441
121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 442
1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 1323.05, 1733.47, 443
1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 444
3721.121, 3722.151, 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 445
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 446
5126.281, or 5153.111 of the Revised Code, any relevant 447
information contained in records that have been sealed under 448
section 2953.32 of the Revised Code; 449

(2) If the request received by the superintendent asks for 450
information from the federal bureau of investigation, the 451
superintendent shall request from the federal bureau of 452
investigation any information it has with respect to the person 453
who is the subject of the request, including fingerprint-based 454
checks of national crime information databases as described in 42 455
U.S.C. 671 if the request is made pursuant to section 2151.86, 456
5104.012, or 5104.013 of the Revised Code or if any other Revised 457
Code section requires fingerprint-based checks of that nature, and 458
shall review or cause to be reviewed any information the 459
superintendent receives from that bureau. If a request under 460
section 3319.39 of the Revised Code asks only for information from 461
the federal bureau of investigation, the superintendent shall not 462
conduct the review prescribed by division (B)(1) of this section. 463

(3) The superintendent or the superintendent's designee may 464
request criminal history records from other states or the federal 465
government pursuant to the national crime prevention and privacy 466
compact set forth in section 109.571 of the Revised Code. 467

(C)(1) The superintendent shall prescribe a form to obtain 468
the information necessary to conduct a criminal records check from 469
any person for whom a criminal records check is requested under 470
section 113.041 of the Revised Code or required by section 121.08, 471
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 472
1321.531, 1322.03, 1322.031, 1323.05, 1733.47, 1761.26, 2151.86, 473
3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 474
3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 475
4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 476
4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 477
4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 478
4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 479
5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 480
5126.28, 5126.281, or 5153.111 of the Revised Code. The form that 481
the superintendent prescribes pursuant to this division may be in 482
a tangible format, in an electronic format, or in both tangible 483
and electronic formats. 484

(2) The superintendent shall prescribe standard impression 485
sheets to obtain the fingerprint impressions of any person for 486
whom a criminal records check is requested under section 113.041 487
of the Revised Code or required by section 121.08, 173.27, 488
173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 489
1322.03, 1322.031, 1323.05, 1733.47, 1761.26, 2151.86, 3301.32, 490
3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 3772.07, 491
4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 492
4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 493
4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 494
4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 495
4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 496
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 497
5126.281, or 5153.111 of the Revised Code. Any person for whom a 498
records check is requested under or required by any of those 499
sections shall obtain the fingerprint impressions at a county 500

sheriff's office, municipal police department, or any other entity 501
with the ability to make fingerprint impressions on the standard 502
impression sheets prescribed by the superintendent. The office, 503
department, or entity may charge the person a reasonable fee for 504
making the impressions. The standard impression sheets the 505
superintendent prescribes pursuant to this division may be in a 506
tangible format, in an electronic format, or in both tangible and 507
electronic formats. 508

(3) Subject to division (D) of this section, the 509
superintendent shall prescribe and charge a reasonable fee for 510
providing a criminal records check requested under section 511
113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 512
1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1323.05, 1733.47, 513
1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 514
3721.121, 3722.151, 3772.07, 4701.08, 4715.101, 4717.061, 515
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 516
4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 517
4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 518
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 519
4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 520
5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 521
5153.111 of the Revised Code. The person making a criminal records 522
request under any of those sections shall pay the fee prescribed 523
pursuant to this division. A person making a request under section 524
3701.881 of the Revised Code for a criminal records check for an 525
applicant who may be both responsible for the care, custody, or 526
control of a child and involved in providing direct care to an 527
older adult shall pay one fee for the request. In the case of a 528
request under section 1121.23, 1155.03, 1163.05, 1315.141, 529
1733.47, 1761.26, or 5111.032 of the Revised Code, the fee shall 530
be paid in the manner specified in that section. 531

(4) The superintendent of the bureau of criminal 532

identification and investigation may prescribe methods of 533
forwarding fingerprint impressions and information necessary to 534
conduct a criminal records check, which methods shall include, but 535
not be limited to, an electronic method. 536

(D) A determination whether any information exists that 537
indicates that a person previously has been convicted of or 538
pleaded guilty to any offense listed or described in division 539
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 540
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 541
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), (A)(14), or (A)(15) 542
of this section, or that indicates that a person previously has 543
been convicted of or pleaded guilty to any criminal offense in 544
this state or any other state regarding a criminal records check 545
of a type described in division (A)(13) of this section, and that 546
is made by the superintendent with respect to information 547
considered in a criminal records check in accordance with this 548
section is valid for the person who is the subject of the criminal 549
records check for a period of one year from the date upon which 550
the superintendent makes the determination. During the period in 551
which the determination in regard to a person is valid, if another 552
request under this section is made for a criminal records check 553
for that person, the superintendent shall provide the information 554
that is the basis for the superintendent's initial determination 555
at a lower fee than the fee prescribed for the initial criminal 556
records check. 557

(E) As used in this section: 558

(1) "Criminal records check" means any criminal records check 559
conducted by the superintendent of the bureau of criminal 560
identification and investigation in accordance with division (B) 561
of this section. 562

(2) "Minor drug possession offense" has the same meaning as 563
in section 2925.01 of the Revised Code. 564

(3) "Older adult" means a person age sixty or older. 565

(4) "OVI or OVUAC violation" means a violation of section 566
4511.19 of the Revised Code or a violation of an existing or 567
former law of this state, any other state, or the United States 568
that is substantially equivalent to section 4511.19 of the Revised 569
Code. 570

Sec. 1181.05. (A) As used in this section, "consumer finance 571
company" means any person required to be licensed or registered 572
under Chapter 1321., 1322., 1323., 4712., 4727., or 4728. or 573
sections 1315.21 to 1315.30 of the Revised Code. 574

(B) Neither the superintendent of financial institutions nor 575
any other employee of the division of financial institutions shall 576
do any of the following: be interested, directly or indirectly, in 577
any bank, savings and loan association, savings bank, credit 578
union, or consumer finance company, that is under the supervision 579
of the superintendent of financial institutions; directly or 580
indirectly borrow money from any such financial institution or 581
company; serve as a director or officer of or be employed by any 582
such financial institution or company; or own an equity interest 583
in any such financial institution or company. For purposes of this 584
section, an equity interest does not include the ownership of an 585
account in a mutual savings and loan association or in a savings 586
bank that does not have permanent stock or the ownership of a 587
share account in a credit union. 588

(C) Subject to division (G) of this section, an employee of 589
the division of financial institutions may retain any extension of 590
credit that otherwise would be prohibited by division (B) of this 591
section if both of the following apply: 592

(1) The employee obtained the extension of credit prior to 593
October 29, 1995, or the commencement of the employee's employment 594
with the division, or as a result of a change in the employee's 595

marital status, the consummation of a merger, acquisition, 596
transfer of assets, or other change in corporate ownership beyond 597
the employee's control, or the sale of the extension of credit in 598
the secondary market or other business transaction beyond the 599
employee's control. 600

(2) The employee liquidates the extension of credit under its 601
original terms and without renegotiation. 602

If the employee chooses to retain the extension of credit, 603
the employee shall immediately provide written notice of the 604
retention to the employee's supervisor. Thereafter, the employee 605
shall be disqualified from participating in any decision, 606
examination, audit, or other action that may affect that 607
particular creditor. 608

(D) Subject to division (G) of this section, an employee of 609
the division of financial institutions may retain any ownership of 610
or beneficial interest in the securities of a financial 611
institution or consumer finance company that is under the 612
supervision of the division of financial institutions, or of a 613
holding company or subsidiary of such a financial institution or 614
company, which ownership or beneficial interest otherwise would be 615
prohibited by division (B) of this section, if the ownership or 616
beneficial interest is acquired by the employee through 617
inheritance or gift, prior to October 29, 1995, or the 618
commencement of the employee's employment with the division, or as 619
a result of a change in the employee's marital status or the 620
consummation of a merger, acquisition, transfer of assets, or 621
other change in corporate ownership beyond the employee's control. 622

If the employee chooses to retain the ownership or beneficial 623
interest, the employee shall immediately provide written notice of 624
the retention to the employee's supervisor. Thereafter, the 625
employee shall be disqualified from participating in any decision, 626
examination, audit, or other action that may affect the issuer of 627

the securities. However, if the ownership of or beneficial 628
interest in the securities and the subsequent disqualification 629
required by this division impair the employee's ability to perform 630
the employee's duties, the employee may be ordered to divest self 631
of the ownership of or beneficial interest in the securities. 632

(E) Notwithstanding division (B) of this section, an employee 633
of the division of financial institutions may have an indirect 634
interest in the securities of a financial institution or consumer 635
finance company that is under the supervision of the division of 636
financial institutions, which interest arises through ownership of 637
or beneficial interest in the securities of a publicly held mutual 638
fund or investment trust, if the employee owns or has a beneficial 639
interest in less than five per cent of the securities of the 640
mutual fund or investment trust, and the mutual fund or investment 641
trust is not advised or sponsored by a financial institution or 642
consumer finance company that is under the supervision of the 643
division of financial institutions. If the mutual fund or 644
investment trust is subsequently advised or sponsored by a 645
financial institution or consumer finance company that is under 646
the supervision of the division of financial institutions, the 647
employee shall immediately provide written notice of the ownership 648
of or beneficial interest in the securities to the employee's 649
supervisor. Thereafter, the employee shall be disqualified from 650
participating in any decision, examination, audit, or other action 651
that may affect the financial institution or consumer finance 652
company. However, if the ownership of or beneficial interest in 653
the securities and the subsequent disqualification required by 654
this division impair the employee's ability to perform the 655
employee's duties, the employee may be ordered to divest self of 656
the ownership of or beneficial interest in the securities. 657

(F)(1) For purposes of this section, the interests of an 658
employee's spouse or dependent child arising through the ownership 659

or control of securities shall be considered the interests of the 660
employee, unless the interests are solely the financial interest 661
and responsibility of the spouse or dependent child, the interests 662
are not in any way derived from the income, assets, or activity of 663
the employee, and any financial or economic benefit from the 664
interests is for the personal use of the spouse or dependent 665
child. 666

(2) If an employee's spouse or dependent child obtains 667
interests arising through the ownership or control of securities 668
and, pursuant to division (F)(1) of this section, the interests 669
are not considered the interests of the employee, the employee 670
shall immediately provide written notice of the interests to the 671
employee's supervisor. Thereafter, the employee shall be 672
disqualified from participating in any decision, examination, 673
audit, or other action that may affect the issuer of the 674
securities. 675

(G) For purposes of divisions (C) and (D) of this section, 676
both of the following apply: 677

(1) With respect to any employee of the former division of 678
consumer finance who, on the first day of the first pay period 679
commencing after the effective date of this section, becomes an 680
employee of the division of financial institutions, the employee's 681
employment with the division of financial institutions is deemed 682
to commence on the first day of the first pay period commencing 683
after the effective date of this section. 684

(2) With respect to any employee who, on October 29, 1995, 685
became an employee of the division of financial institutions, the 686
employee may, notwithstanding divisions (C) and (D) of this 687
section, retain any extension of credit by a consumer finance 688
company that was obtained at any time prior to the first day of 689
the first pay period commencing after the effective date of this 690
section, or retain any ownership of or beneficial interest in the 691

securities of a consumer finance company, or of a holding company 692
or subsidiary of such a company, that was acquired at any time 693
prior to the first day of the first pay period commencing after 694
the effective date of this section. If the employee chooses to 695
retain the extension of credit or the ownership or beneficial 696
interest, the employee shall comply with divisions (C) and (D) of 697
this section. 698

Sec. 1181.21. (A) As used in this section, "consumer finance 699
company" has the same meaning as in section 1181.05 of the Revised 700
Code. 701

(B) The superintendent of financial institutions shall see 702
that the laws relating to consumer finance companies are executed 703
and enforced. 704

(C) The deputy superintendent for consumer finance shall be 705
the principal supervisor of consumer finance companies. In that 706
position the deputy superintendent for consumer finance shall, 707
notwithstanding section 1321.421, division (A) of section 1321.76, 708
and sections 1321.07, 1321.55, 1322.06, 1323.12, 4727.05, and 709
4728.05 of the Revised Code, be responsible for conducting 710
examinations and preparing examination reports under those 711
sections. In addition, the deputy superintendent for consumer 712
finance shall, notwithstanding sections 1315.27, 1321.10, 1321.43, 713
1321.54, 1321.77, 1322.12, 1323.11, 4712.14, 4727.13, and 4728.10 714
of the Revised Code, have the authority to adopt rules and 715
standards in accordance with those sections. In performing or 716
exercising any of the examination, rule-making, or other 717
regulatory functions, powers, or duties vested by this division in 718
the deputy superintendent for consumer finance, the deputy 719
superintendent for consumer finance shall be subject to the 720
control of the superintendent of financial institutions and the 721
director of commerce. 722

Sec. 1321.52. (A)(1) No person, on that person's own behalf 723
or on behalf of any other person, shall do any of the following 724
without having first obtained a certificate of registration from 725
the division of financial institutions: 726

(a) Advertise, solicit, or hold out that the person is 727
engaged in the business of making residential mortgage loans 728
secured by a mortgage on a borrower's real estate which is other 729
than a first lien on the real estate; 730

~~(b) Engage in the business of lending or collecting the 731
person's own or another person's money, credit, or choses in 732
action for non first lien residential mortgage loans; 733~~

~~(c) Employ or compensate mortgage loan originators licensed 734
or who should be licensed under sections 1321.51 to 1321.60 of the 735
Revised Code to conduct the business of making residential 736
mortgage loans; 737~~

~~(d)~~(c) Make loans in this state of the type set forth in 738
division (C) of this section that are unsecured or are secured by 739
other than real property, which loans are for more than five 740
thousand dollars at a rate of interest greater than permitted by 741
section 1343.01 or other specific provisions of the Revised Code. 742

(2) Each person issued a certificate of registration or 743
license is subject to all the rules prescribed under sections 744
1321.51 to 1321.60 of the Revised Code. 745

(B)(1) All loans made to persons who at the time are 746
residents of this state are considered as made within this state 747
and subject to the laws of this state, regardless of any statement 748
in the contract or note to the contrary, except as follows: 749

(a) If the loan is primarily secured by a lien on real 750
property in another state and is arranged by a mortgage loan 751
originator licensed by that state, the borrower may by choice of 752

law designate that the transaction be governed by the law where 753
the real property is located if the other state has consumer 754
protection laws covering the borrower that are applicable to the 755
transaction. 756

(b) If the loan is for the purpose of purchasing goods 757
acquired by the borrower when the borrower is outside of this 758
state, the loan may be governed by the laws of the other state. 759

(2) Nothing in division (B)(1) of this section prevents a 760
choice of law or requires registration or licensure of persons 761
outside of this state in a transaction involving the solicitation 762
of residents of this state to obtain non-real estate secured loans 763
that require the borrowers to physically visit a lender's 764
out-of-state office to apply for and obtain the disbursement of 765
loan funds. 766

(C) A registrant may make unsecured loans, loans secured by a 767
mortgage on a borrower's real estate which is a first lien or 768
other than a first lien on the real estate, loans secured by other 769
than real estate, and loans secured by any combination of 770
mortgages and security interests, on terms and conditions provided 771
by sections 1321.51 to 1321.60 of the Revised Code. 772

(D)(1) If a lender that is subject to sections 1321.51 to 773
1321.60 of the Revised Code makes a loan in violation of division 774
(A)(1) of this section, the lender has no right to collect, 775
receive, or retain any interest or charges on that loan. 776

(2) If a registrant applies to the division for a renewal of 777
the registrant's certificate after the date required by division 778
(A)(7) of section 1321.53 of the Revised Code, but prior to the 779
first day of February of that year, and the division approves the 780
application, division (D)(1) of this section does not apply with 781
respect to any loan made by the registrant while the registrant's 782
certificate was expired. 783

(3) If a person's registration under sections 1321.51 to 784
1321.60 of the Revised Code terminates due to nonrenewal or 785
otherwise but the person continues to engage in the business of 786
collecting or servicing non-first lien residential mortgage loans 787
in violation of division (A)(1) of this section, the 788
superintendent of financial institutions may take administrative 789
action, including action on any subsequent application for a 790
certificate of registration. ~~In addition, no late fee, bad check 791
charge except as incurred, charge related to default or cost to 792
realize on its security interest, or prepayment penalty on 793
non first lien residential mortgage loans shall be collected or 794
retained by a person who is in violation of division (A)(1)(b) of 795
this section for the period of time in which the person was in 796
violation.~~ Nothing in division (D)(3) of this section prevents or 797
otherwise precludes any other actions or penalties provided by law 798
or modifies a defense of holder in due course that a subsequent 799
purchaser servicing the residential mortgage loan may raise. 800

(E)(1) No individual shall engage in the business of a 801
mortgage loan originator without first obtaining and maintaining 802
annually a license pursuant to section 1321.532 of the Revised 803
Code from the division of financial institutions. A mortgage loan 804
originator shall be employed or associated with a registrant or 805
entity exempt from registration under sections 1321.51 to 1321.60 806
of the Revised Code, but shall not be employed by or associated 807
with more than one registrant or exempt entity at any one time. 808

(2) An individual acting under the individual's authority as 809
a registered mortgage loan originator shall not be required to be 810
licensed under division (E)(1) of this section. 811

(F)(1) Each licensee shall register with, and maintain a 812
valid unique identifier issued by, the nationwide mortgage 813
licensing system and registry. 814

(2) No person shall use a licensee's unique identifier for 815

any purpose other than as set forth in the "Secure and Fair 816
Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 817
12 U.S.C. 5101. 818

(G)(1) If a person that is subject to sections 1321.51 to 819
1321.60 of the Revised Code makes a loan in violation of division 820
(A)(1)~~(d)~~(c) of this section and subsequently sells or assigns 821
that loan, the person is liable to the borrower for any interest 822
paid on that loan to the holder or assignee in excess of the rate 823
that would be applicable in the absence of sections 1321.51 to 824
1321.60 of the Revised Code, in addition to any interest or 825
charges paid on that loan to the unauthorized lender as provided 826
by division (D)(1) of this section. 827

(2) If a person that is subject to sections 1321.51 to 828
1321.60 of the Revised Code makes a residential mortgage loan in 829
violation of division (A)(1)(b) ~~or (e)~~ of this section and 830
subsequently sells or assigns that loan, the lender is liable to 831
the borrower for any interest paid on that loan to the holder or 832
assignee in excess of the rate set forth in division (B)(4) of 833
section 1343.01 of the Revised Code, in addition to any interest 834
or charges paid on that loan to the unauthorized lender as 835
provided by division (D)(1) of this section. 836

Sec. 1323.01. As used in this chapter: 837

(A) "Mortgage servicer" or "servicer" means a person who 838
engages directly or indirectly, whether for compensation, gain for 839
another, or on the person's own behalf, in the business of 840
receiving scheduled periodic payments from a borrower pursuant to 841
the terms of a residential mortgage loan, including amounts 842
received for deposit in an escrow account, and applying those 843
payments received toward principal, interest, and other 844
obligations of the borrower including amounts to be paid from an 845
escrow account. 846

"Mortgage servicer" includes a person who makes or holds a loan if that person also services the loan. 847
848

"Mortgage servicer" does not include any of the following: 849

(1) The federal deposit insurance corporation or the resolution trust corporation, in connection with assets acquired, assigned, sold, or transferred pursuant to the "Federal Deposit Insurance Corporation Act," 64 Stat. 873 (1950), 12 U.S.C. 1823(c), or as receiver or conservator of an insured depository institution; 850
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(2) The government national mortgage association, the federal national mortgage association, the federal home loan mortgage corporation, the resolution trust corporation, or the federal deposit insurance corporation, in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by: 856
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(a) Termination of the contract for servicing the loan for cause; 862
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(b) Commencement of proceedings for bankruptcy of the servicer; 864
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(c) Commencement of proceedings by the federal deposit insurance corporation or the resolution trust corporation for conservatorship or receivership of the servicer or an entity by which the servicer is owned or controlled. 866
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(3) The national credit union administration, in connection with assets acquired, assigned, sold, or transferred pursuant to federal law, or as a receiver or conservator of an insured credit union; 870
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(4) Any political subdivision or any public agency of the United States or any state. 874
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(B) "Mortgage lender" means a person engaged in the business 876

of making residential mortgage loans for compensation or gain. 877

(C) "Residential mortgage" and "residential mortgage loan" mean 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 four or fewer residential units and includes such an obligation on a residential condominium or cooperative unit. 878
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(D) "Employee" means an individual for whom a person pays a wage or salary, pays social security and unemployment taxes, provides workers' compensation coverage, and withholds local, state, and federal income taxes. "Employee" includes any individual who acts as an operations manager of a registered mortgage servicer, but for whom the servicer is prevented by law from making income tax withholdings. 883
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(E) "Operations manager" means the employee or owner responsible for the everyday operations, compliance requirements, and management of a registrant or applicant. 890
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(F) "Superintendent of financial institutions" or "superintendent" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code. 893
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(G) "Credit union" means an entity chartered under Chapter 1733. of the Revised Code or under similar laws of another state or the United States. "Credit union" includes a credit union service organization consisting of multiple credit unions. 896
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Sec. 1323.02. (A) This chapter shall be known as the "residential mortgage servicers registration act." 900
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(B) This chapter does not apply to any of the following: 902

(1) Any entity that is chartered and lawfully doing business as a bank, savings bank, trust company, savings and loan association, or credit union under the authority of any law of this state, another state, or the United States; 903
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<u>(2) Life, property, or casualty insurance companies licensed</u>	907
<u>to do business in this state;</u>	908
<u>(3) Any attorney or law firm acting on behalf of any mortgage</u>	909
<u>note holder or mortgage servicer when acting in connection with</u>	910
<u>the practice of law in this state, except as otherwise provided in</u>	911
<u>division (D) of this section;</u>	912
<u>(4) Any political subdivision, or any governmental or other</u>	913
<u>public agency, corporation, or instrumentality in or of the United</u>	914
<u>States or any state;</u>	915
<u>(5) An institution of higher education as defined in section</u>	916
<u>1713.01 of the Revised Code;</u>	917
<u>(6) A debt collector acting under the name of, and as agent</u>	918
<u>for, a mortgage servicer registrant to collect a debt in default.</u>	919
<u>(C) Mortgage lenders registered under section 1321.52 of the</u>	920
<u>Revised Code and mortgage brokers registered under section 1322.02</u>	921
<u>of the Revised Code are exempt from the registration requirements</u>	922
<u>of section 1323.03 of the Revised Code but shall comply with</u>	923
<u>divisions (C), (D), (F), and (G) of section 1323.15, and sections</u>	924
<u>1323.16, 1323.17, and 1323.18 of the Revised Code in connection</u>	925
<u>with the servicing of residential mortgage loans. Any violation of</u>	926
<u>these sections is an unfair and deceptive practice in violation of</u>	927
<u>section 1345.02 of the Revised Code and may result in</u>	928
<u>administrative action and penalties the superintendent of</u>	929
<u>financial institutions of the department of commerce imposes</u>	930
<u>pursuant to sections 1321.54 and 1322.10 of the Revised Code.</u>	931
<u>(D) Any attorney or law firm primarily engaged in debt</u>	932
<u>collection shall comply with division (D) of section 1323.15 and</u>	933
<u>section 1323.18 of the Revised Code when acting as a mortgage</u>	934
<u>servicer, notwithstanding the general exemption from this chapter.</u>	935
<u>Any violation by an attorney of division (D) of section 1323.15 or</u>	936
<u>section 1323.18 of the Revised Code, in connection with any debt</u>	937

collection activity that is not considered the practice of law, is 938
deemed to be an unfair and deceptive practice in violation of 939
section 1345.02 of the Revised Code. 940

Sec. 1323.03. (A) No person, on that person's own behalf or 941
on behalf of any other person, shall do either of the following 942
unless that person is registered as a mortgage servicer and has a 943
certificate of registration from the superintendent of financial 944
institutions of the department of commerce: 945

(1) Engage in the business of collecting money, credit, or 946
choses in action for residential mortgage loans or otherwise act 947
as a mortgage servicer; 948

(2) Collect accelerated mortgage payments from a biweekly or 949
other accelerated payment plan that the person operates, arranges, 950
or offers to arrange for compensation or gain in connection with a 951
residential mortgage loan. 952

(B) Any person who acts in willful violation of division (A) 953
of this section, after receiving written notice of the violation 954
from the superintendent or a court, may not collect any amounts as 955
interest or charges on that loan. Any amounts collected shall be 956
credited as a principal reduction to the loan. 957

(C)(1) When a registration expires for any reason and the 958
former registrant continues to service residential mortgage loans 959
in violation of division (A) of this section, the superintendent 960
may take administrative action, including action on any subsequent 961
application for a certificate of registration. 962

(2) A servicer with an expired registration may not collect, 963
charge, or retain any late fee, bad check charge except as 964
incurred, charge related to default, cost to realize on its 965
security interest, or prepayment penalty on any residential 966
mortgage loan unless that servicer applies to the superintendent 967

for a registration renewal and a certificate of registration prior 968
to the first day of August of the year the registration expires 969
and the superintendent approves that application. 970

(D) No person shall conduct the business of a mortgage 971
servicer in association with any exempt business if the 972
superintendent has ordered that exempt business, in writing, to 973
desist from conduct that the superintendent found to be a mere 974
conduit for the mortgage servicer and that the association of the 975
servicer and the exempt business is intended to conceal an evasion 976
of this chapter or the rules adopted under it. Any determination 977
made pursuant to this division shall be made in accordance with 978
Chapter 119. of the Revised Code. 979

Sec. 1323.04. (A) Any application for registration as a 980
mortgage servicer shall be in writing, under oath, and in the form 981
the superintendent of financial institutions of the department of 982
commerce prescribes. It shall contain an undertaking by the 983
applicant to abide by this chapter and any other information that 984
the superintendent requires. Applicants that are foreign 985
corporations shall obtain and maintain a license pursuant to 986
Chapter 1703. of the Revised Code before seeking registration or 987
registration renewal as a mortgage servicer. 988

(B) Upon an applicant's filing an application and paying a 989
nonrefundable two-hundred-dollar investigation fee, a 990
nonrefundable one-thousand-dollar annual registration fee, and any 991
additional fee required by law, the superintendent shall 992
investigate the relevant facts. If the application requires 993
investigation outside this state, the applicant may be required to 994
advance sufficient funds to pay any of the actual expenses when it 995
appears that these expenses will exceed two hundred dollars. The 996
superintendent shall furnish an itemized statement of any expenses 997
the applicant is required to pay. The superintendent shall not 998

issue any certificate of registration unless all the required fees 999
have been paid. 1000

(C) An applicant shall designate an employee or owner who has 1001
at least three years' experience in the mortgage, collections, 1002
servicing, or lending field as the applicant's operations manager. 1003
No operations manager shall be employed by any other mortgage 1004
servicer while acting as an operations manager. Any operations 1005
manager must be acceptable to the superintendent. 1006

(D) The superintendent may consider an application for 1007
registration as a mortgage servicer withdrawn if that application 1008
does not contain all of the information required under division 1009
(A) of this section and the applicant does not submit that 1010
information within ninety days after the superintendent requests 1011
the information in writing. 1012

(E) The superintendent of financial institutions shall 1013
deposit any licensing fee, charge, or fine received pursuant to 1014
this chapter into the consumer finance fund in the state treasury, 1015
created under section 1321.21 of the Revised Code, unless 1016
otherwise specified by law. 1017

Sec. 1323.05. (A)(1) Any investigation the superintendent of 1018
financial institutions of the department of commerce undertakes 1019
with respect to an application for registration as a mortgage 1020
servicer shall include a civil records check of the applicant, 1021
including any individual whose identity is required to be 1022
disclosed in the application, and criminal records check at the 1023
time of the initial application and every five years thereafter, 1024
or upon a change of control of the registrant if the persons 1025
acquiring control have not had a criminal records check submitted 1026
to the superintendent within the past five years. 1027

(2) Where the applicant is a business entity, the 1028
superintendent may require a civil and criminal background check 1029

of those persons that the superintendent determines have the 1030
authority to direct and control the operations of the applicant. 1031

(B) When conducting a criminal background check, the 1032
superintendent shall request the superintendent of the bureau of 1033
criminal identification and investigation, or a vendor the 1034
superintendent approves, to conduct a criminal records check based 1035
on the applicant's fingerprints or if fingerprints are unreadable, 1036
based on the applicant's social security number in accordance with 1037
division (A)(12) of section 109.572 of the Revised Code. 1038
Notwithstanding division (K) of section 121.08 of the Revised 1039
Code, the superintendent of financial institutions shall request 1040
that criminal record information from the federal bureau of 1041
investigation be obtained as part of the criminal records check. 1042

(C) The applicant shall pay any fee required under division 1044
(C)(3) of section 109.572 of the Revised Code. 1045

Sec. 1323.06. (A) The superintendent of financial 1046
institutions of the department of commerce shall issue a 1047
certificate of registration as a mortgage servicer to an applicant 1048
if the superintendent finds that the applicant's financial 1049
responsibility, experience, character, and general fitness command 1050
the confidence of the public and warrant the belief that the 1051
business will be operated honestly and fairly in compliance with 1052
the purposes of this chapter and the rules adopted under it, and 1053
that the applicant has the requisite bond or applicable net worth 1054
as this chapter requires. 1055

(B) Upon finding an applicant does not meet the conditions 1056
set forth in this chapter, the superintendent shall issue a notice 1057
of intent to deny an application for registration or renewal. The 1058
superintendent shall immediately notify the applicant of the 1059
denial, the grounds for the denial, and the applicant's 1060

opportunity to be heard on the action in accordance with Chapter 1061
119. of the Revised Code. 1062

(C) Any certificate issued pursuant to this section shall 1063
expire on the first day of July next after its issue, and on the 1064
first day of July in each succeeding year unless renewed by filing 1065
a renewal application and payment of an annual fee and any 1066
additional fee required by law, on or before the last day of June 1067
of each year. 1068

Sec. 1323.07. (A) To renew a registration as a mortgage 1069
servicer, a registrant shall timely file a renewal application on 1070
a form the superintendent of financial institutions of the 1071
department of commerce prescribes, along with any additional 1072
information that the superintendent requires. 1073

(B) As a condition of renewal, a registrant must provide 1074
proof that the designated operations manager meets the criteria 1075
for initial approval set forth in section 1323.05 of the Revised 1076
Code and that the mortgage servicer meets the minimum standards 1077
for the issuance of the certificate of registration under sections 1078
1323.04 to 1323.06 of the Revised Code. 1079

(C) The superintendent shall not grant any renewal if the 1080
applicant's certificate of registration is subject to an order of 1081
suspension, revocation, or an unpaid and past due fine the 1082
superintendent has imposed. 1083

(D) If an application for renewal of a certificate of 1084
registration does not contain all the information this section 1085
requires, and if the registrant does not submit that information 1086
to the superintendent within ninety days after the superintendent 1087
requests the information in writing, the superintendent may 1088
consider the application withdrawn. 1089

Sec. 1323.08. At any time there is a change of five per cent 1090

or more in the ownership of a registrant, the superintendent of 1091
financial institutions of the department of commerce may make any 1092
investigation necessary to determine whether any fact or condition 1093
presently exists that would have warranted the superintendent 1094
denying the original application had the fact or condition existed 1095
at the time of that application. If the superintendent finds such 1096
a fact or condition, the superintendent may revoke the 1097
registrant's registration and certificate pursuant to Chapter 119. 1098
of the Revised Code. 1099

Sec. 1323.09. (A) Each place of business to which borrowers 1100
are regularly directed to remit payment shall display its own 1101
certificate of registration. The superintendent of financial 1102
institutions of the department of commerce may issue additional 1103
certificates of registration to the same person for additional 1104
places of business upon compliance with the requirements governing 1105
the issuance of a single certificate. 1106

(B)(1) Any change in the place of business to a location 1107
outside the original municipal corporation requires a new 1108
certificate of registration. A registrant who makes such a change 1109
of location shall submit a new application, pay the registration 1110
fee and, if the superintendent requires, pay an investigation fee 1111
of two hundred dollars. The registrant must have the new 1112
certificate before operating in the new location. 1113

(2) A registrant who wishes to change its place of business 1114
within the same municipal corporation shall give written notice of 1115
the change in advance to the superintendent, who shall provide a 1116
certificate for the new address without cost. 1117

(C) A registrant that changes its name shall give written 1118
notice of the change to the superintendent prior to acting as a 1119
mortgage servicer under the new name. The superintendent shall 1120

provide a certificate in the new name without cost. 1121

(D) A registrant shall keep each certificate conspicuously 1122
posted in each place of business. A certificate of registration is 1123
not transferable or assignable. 1124

Sec. 1323.10. (A) Any person who acts as a mortgage servicer, 1125
if not bonded pursuant to division (B) of this section, shall 1126
maintain at all times both of the following: 1127

(1) A net worth of at least two hundred fifty thousand 1128
dollars; 1129

(2) For each additional certificate of registration beyond 1130
the first, assets of at least fifty thousand dollars either in use 1131
or readily available for use in the conduct of the business. 1132

(B) Any person acting as a mortgage servicer by arranging 1133
biweekly or other accelerated payment plans and collecting those 1134
payments shall obtain and maintain in effect at all times a 1135
corporate surety bond issued by a bonding company or insurance 1136
company authorized to do business in this state. The servicer 1137
shall file a copy of the bond with the superintendent of financial 1138
institutions of the department of commerce. The bond shall meet 1139
all of the following conditions: 1140

(1) Be in favor of the superintendent; 1141

(2) Have a base penal sum of two hundred fifty thousand 1142
dollars for the first location and an additional penal sum of ten 1143
thousand dollars for each additional location that requires a 1144
separate certificate of registration; 1145

(3) Have a term that coincides with the term of registration; 1146
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(4) Be for the exclusive benefit of any individual borrower 1148
injured by any violation of this chapter or the rules adopted 1149
under it by a servicer, its employees, or agent; 1150

(5) Have an aggregate liability of the corporate surety for 1151
any and all breaches of the conditions of the bond not to exceed 1152
the penal sum of the bond. 1153

(C)(1) A mortgage servicer shall give notice to the 1154
superintendent by certified mail of any action that is brought by 1155
a borrower against the servicer alleging injury by a violation of 1156
this chapter and of any judgment that is entered against the 1157
servicer by a borrower injured by that violation. The notice shall 1158
provide details sufficient to identify the action or judgment. The 1159
servicer shall file the notice with the superintendent within ten 1160
days after the commencement of the action or receipt of the notice 1161
of entry of a judgment. 1162

(2) A corporate surety shall give notice of any payment to 1163
the superintendent by certified mail within ten days after it pays 1164
any claim or judgment, with details sufficient to identify the 1165
person and the claim or judgment paid. 1166

(D) Whenever the penal sum of the corporate surety bond is 1167
reduced by one or more recoveries or payments, a servicer shall 1168
furnish a new or additional bond under this section, so that the 1169
total or aggregate penal sum of the bond or bonds equals the sum 1170
required by this section, or shall furnish an endorsement executed 1171
by the corporate surety reinstating the bond to the required penal 1172
sum set forth in division (B) of this section. 1173

(E) The liability of the corporate surety on the bond to the 1174
superintendent and to any borrower injured by a violation of this 1175
chapter is not affected in any way by any misrepresentation, 1176
breach of warranty, or failure to pay the premium, by any act or 1177
omission upon the part of the servicer, by the insolvency or 1178
bankruptcy of the servicer, or by the insolvency of the servicer's 1179
estate. The servicer shall maintain in effect liability for any 1180
act or omission that occurs during the term of the corporate 1181
surety bond for at least two years after the date on which the 1182

corporate surety bond is terminated or canceled. 1183

(F) Neither the servicer nor the corporate surety shall 1184
cancel a corporate surety bond except upon notice to the 1185
superintendent by certified mail, return receipt requested. A 1186
cancellation is not effective until thirty days after the 1187
superintendent receives the notice. 1188

(G) No servicer shall fail to comply with this section. Any 1189
servicer that fails to comply shall cease acting as a mortgage 1190
servicer in this state until that servicer complies with this 1191
section. 1192

Sec. 1323.11. (A) The superintendent of financial 1193
institutions of the department of commerce may adopt, in 1194
accordance with Chapter 119. of the Revised Code, rules to 1195
administer and enforce this chapter and to carry out its purposes. 1196

(B) The superintendent may investigate alleged violations of 1197
this chapter or the rules adopted under it, or complaints 1198
concerning any violation. In conducting an investigation, the 1199
superintendent, by subpoena, may compel witnesses to testify in 1200
relation to any matter over which the superintendent has 1201
jurisdiction, and may require the production or photocopying of 1202
any book, record, or other document pertaining to such matter. If 1203
a person fails to comply with the subpoena, or permit photocopying 1204
of any document subpoenaed, a court of common pleas, upon the 1205
superintendent's application, shall compel obedience by attachment 1206
proceedings for contempt or a refusal to testify. 1207

(C)(1) In accordance with Chapter 119. of the Revised Code, 1209
the superintendent may revoke, suspend, or refuse to renew any 1210
registration issued under this chapter if the superintendent finds 1211
any of the following: 1212

(a) A violation of or failure to comply with any provision of this chapter or the rules adopted under it, Chapter 1345. of the Revised Code, federal debt collection laws, or any other law applicable to the business the registrant conducts under the registrant's certificate of registration; 1213
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(b) The registrant has been convicted of or pleaded guilty or no contest in a domestic, foreign, or military court to any felony or 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; 1218
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(c) The registrant's certificate of registration, license, or comparable authority as a mortgage servicer has been revoked in any other state. 1225
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(2) The superintendent may impose a monetary fine pursuant to division (F) of this section in addition to, or instead of, any revocation, suspension, or denial or in settlement of matters subject to claims under division (C)(1)(a) of this section. 1228
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(3) Except as otherwise provided in section 1323.03 of the Revised Code, the revocation, suspension, or refusal to renew a registration does not impair the obligation of any pre-existing lawful contract made under this chapter if a mortgage servicer makes a good faith effort to promptly transfer its collection rights to a registrant or person exempt from registration. A servicer that does not make the requisite good faith effort is subject to additional monetary fines and legal or administrative action by the superintendent. 1232
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(4) Nothing in division (C) of this section limits a court's ability to impose a cease and desist order preventing any further business or servicing activity. 1241
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(D) The superintendent may apply to the court of common pleas for an order enjoining any violation of this chapter. Upon a showing that a person has committed or is about to commit a violation of this chapter, the court shall grant an injunction, restraining order, or other appropriate relief. If the application to a court is for an order enjoining a person from acting as a registrant or mortgage servicer in violation of division (A) of section 1323.03 of the Revised Code, the superintendent may request, and the court may impose, a civil penalty for that unregistered or unlicensed conduct in an amount not to exceed five thousand dollars per violation. 1244
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(E) The superintendent may issue a cease and desist order if the superintendent determines that a person is engaged in or may be engaged in activities that violate this chapter or the rules adopted under it, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code. 1255
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(F)(1) The superintendent may impose a fine of not more than one thousand dollars for each day a violation of this chapter or the rules adopted under it is committed, repeated, or continued. In determining the amount of a fine to impose, the superintendent may consider all of the following: 1260
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(a) The seriousness of the violation; 1265

(b) The servicer's good faith efforts to prevent the violation; 1266
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(c) The servicer's history regarding violations and compliance with the superintendent's orders; 1268
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(d) The servicer's financial resources; 1270

(e) Any other matters the superintendent considers appropriate in enforcing this chapter. 1271
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(2) Monetary fines imposed under this section do not preclude 1273

any criminal fine described in section 1323.99 of the Revised Code. 1274
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(G) 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. 1276
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Sec. 1323.12. (A)(1) A mortgage servicer shall keep separate records pertaining to each loan serviced. The servicer shall preserve those records for so long as the servicer has responsibility for the loan and retain copies of those records for at least four years even if the servicer transfers the original copies for any reason. At any time responsibility for the loan is transferred to another servicer, the servicer who is ceasing responsibility shall transfer all original loan documents and records to the servicer who is assuming responsibility for the loan. Any system of electronic imaging of required records shall be approved by the superintendent of financial institutions of the department of commerce prior to its use but at no time shall such a system be a substitute for maintaining original documents as this section requires. 1279
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(2) As often as necessary, the superintendent may make or cause to be made an examination of records pertaining to loans serviced for the purpose of determining whether the servicer is complying with this chapter and of verifying any registrant's annual report. 1293
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(B)(1) The superintendent may require each servicer to file each year a report under oath or affirmation, on forms the superintendent supplies, concerning the business and operations for the preceding calendar year. A servicer that operates two or more registered offices or who operates registered offices with one or more affiliated servicers, may file a composite report of the group of registered offices in lieu of individual reports. 1298
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(2) The reports provided under division (B)(1) of this section are not public records as defined in section 149.43 of the Revised Code and are not open to public inspection. 1305
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(C)(1) The following information is confidential: 1308

(a) Examination information, and any information leading to or arising from an examination; 1309
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(b) Investigation information, and any information arising from or leading to an investigation. 1311
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(2) The information described in division (C) of this section is confidential for all purposes except when it is necessary for the superintendent to take official action regarding the affairs of a servicer or in connection with criminal or civil proceedings to be initiated by a prosecuting attorney or the attorney general. This information may be introduced into evidence or disclosed pursuant to section 1181.25 of the Revised Code. 1313
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(D) All application information is a public record as defined in section 149.43 of the Revised Code, except social security numbers, employer identification numbers, financial account numbers, the identity of the institution where financial accounts are maintained, personal financial information, fingerprint cards and the information contained on such cards, and criminal background information. 1321
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(E) Nothing in this section prevents the superintendent from releasing information relating to servicers or exchanging that information with other financial institution regulatory authorities. For this purpose, a "financial institution regulatory authority" includes a regulator of a business activity in which a servicer is engaged or has applied to engage, to the extent that the regulator has jurisdiction over a servicer engaged in that business activity. A servicer is engaged in a business activity, 1328
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and a regulator of that business activity has jurisdiction over 1336
the servicer, whether the servicer conducts the activity directly 1337
or a subsidiary or affiliate of the servicer conducts the 1338
activity. 1339

(F) Nothing in this section prevents the superintendent of 1340
financial institutions from releasing information relating to 1341
mortgage servicers to the attorney general, to the superintendent 1342
of real estate and professional licensing of the department of 1343
commerce for purposes relating to the administration of Chapters 1344
4735. and 4763. of the Revised Code, to the superintendent of 1345
insurance for purposes relating to the administration of Chapter 1346
3953. of the Revised Code, to the commissioner of securities of 1347
the department of commerce for purposes relating to the 1348
administration of Chapter 1707. of the Revised Code, or to local 1349
law enforcement agencies and local prosecutors. Information 1350
released pursuant to this section remains confidential. The 1351
superintendent of financial institutions, by rule, may designate 1352
additional state agencies and regulatory authorities as entities 1353
with which to share this confidential information. 1354

Sec. 1323.13. No person, in connection with any examination 1355
or investigation conducted by the superintendent of financial 1356
institutions of the department of commerce under this chapter, 1357
shall knowingly do any of the following: 1358

(A) Circumvent, interfere with, obstruct, or fail to 1359
cooperate, including making a false or misleading statement, 1360
failing to produce records, or intimidating or suborning any 1361
witness; 1362

(B) Withhold, abstract, remove, mutilate, destroy, or secrete 1363
any books, records, computer records, or other information; 1364

(C) Tamper with, alter, or manufacture any evidence. 1365

Sec. 1323.14. (A) No mortgage servicer, through its operations manager or otherwise, shall fail to reasonably supervise persons the servicer employs or associates with, or to establish reasonable procedures to avoid violations of this chapter or the rules adopted under it, violations of applicable state and federal consumer and lending laws or rules by persons the servicer employs or associates with.

(B) Within ten business days of any change in a mortgage servicer's statutory agent designation or address, the servicer shall file with the superintendent of financial institutions of the department of commerce evidence that the servicer has filed such changes with the secretary of state.

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

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

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

Sec. 1323.15. (A) No mortgage servicer shall refuse to 1396
provide information regarding the amount required to pay in full a 1397
residential mortgage loan when the borrower or a person the 1398
borrower designates makes that request in writing. The servicer 1399
shall provide the requested payoff statement without charge one 1400
time during any twelve-month period. If additional payoff 1401
statements are requested, the servicer may charge an amount not in 1402
excess of three dollars for each additional statement. The 1403
servicer shall provide any payoff statement within five business 1404
days of the request. 1405

(B) No mortgage servicer shall obtain a certificate of 1406
registration through any false or fraudulent representation of a 1407
material fact or any omission of a material fact required by state 1408
or federal law, or make any substantial misrepresentation in the 1409
registration application. 1410

(C) No mortgage servicer shall make false or misleading 1411
statements of a material fact, omissions of statements required by 1412
state or federal law, or false promises regarding a material fact, 1413
through advertising or other means, or engage in a continued 1414
course of misrepresentations. 1415

(D) No mortgage servicer shall engage in conduct that 1416
constitutes improper, fraudulent, or dishonest dealings. 1417

(E) No mortgage servicer or applicant for registration shall 1418
fail to notify the superintendent of financial institutions of the 1419
department of commerce within thirty days after the servicer or 1420
applicant has: 1421

(1) Been convicted of or pleaded guilty or no contest in a 1422
domestic, foreign, or military court to any felony; 1423

(2) Been convicted of or pleaded guilty or no contest in a 1424
domestic, foreign, or military court to any criminal offense 1425

involving theft, receiving stolen property, embezzlement, forgery, 1426
fraud, passing bad checks, money laundering, breach of trust, 1427
dishonesty, or drug trafficking, or any criminal offense involving 1428
money or securities; 1429

(3) Had a mortgage servicer registration, license, or 1430
comparable authority revoked in any other state. 1431

(F) No mortgage servicer shall knowingly make, propose, or 1432
solicit fraudulent, false, or misleading statements on any 1433
mortgage servicing document or on any document related to an 1434
accounting of payments remitted or disbursed. For purposes of this 1435
division, "fraudulent, false, or misleading statements" does not 1436
include mathematical errors, inadvertent transposition of numbers, 1437
typographical errors, or any other bona fide error. 1438

(G) No mortgage servicer shall knowingly instruct, solicit, 1439
propose, or otherwise cause a borrower to sign in blank a 1440
document. 1441

Sec. 1323.16. (A) In addition to the duties imposed by common 1442
law or state or federal law, in the course of servicing 1443
residential mortgage loans in this state, a mortgage servicer 1444
shall do all of the following: 1445

(1) Act with good faith and fair dealing in any transaction, 1446
practice, or course of business associated with servicing; 1447

(2) Act with reasonable skill, care, and diligence; 1448

(3) Act in good faith to provide the borrower with the facts 1449
relating to the nature and extent of any delinquency or default 1450
and the amounts owed or necessary to reinstate the loan or cure 1451
the default; 1452

(4) Subject to the servicer's duties and obligations under 1453
its mortgage servicing contract, attempt a resolution, 1454
modification, or workout to the delinquency of a borrower who 1455

requests assistance; 1456

(5) Make a good faith effort to correct any erroneous information it has provided to any credit reporting agency; 1457
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(6) Provide information regarding the amount required to pay in full a residential mortgage loan within five business days when requested by the borrower or by another person designated in writing by the borrower. The servicer shall provide the requested payoff statement without charge once during any twelve-month period. If additional payoff statements are requested, the servicer may charge an amount not in excess of three dollars for each additional statement. 1459
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(7) Make all payments from any escrow account in a timely manner, so as to avoid the assessment of late fees, penalties, or consequential damages, notwithstanding any loan delinquency, unless there are insufficient funds in the escrow account to cover the payments; 1467
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(8) Accept and credit each residential mortgage loan payment received on the date received; 1472
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(9) Take all steps necessary to terminate a foreclosure action when the condition giving rise to action has been fully cured. Upon cure of a default, the servicer shall reinstate the borrower to the same position as if the default had not occurred, and nullify, as of the date of the cure, any acceleration of any obligation under the residential mortgage loan or note arising from the default. 1474
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(10) In addition to the duties enumerated in this chapter, any mortgage servicer for a government-insured loan shall comply with the loss mitigation standards and guidelines as required by the insuring entity. 1481
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(B) When establishing a loan modification solution for a borrower, a mortgage servicer shall seek to achieve long-term 1485
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sustainability for the borrower. 1487

Sec. 1323.17. No mortgage servicer shall do any of the 1488
following in connection with a residential mortgage loan: 1489

(A) Collect, charge, or retain any fee from the borrower 1490
unless the fee is reasonable, for a bona fide service rendered, 1491
and specifically authorized by the residential mortgage loan and 1492
permitted by law; 1493

(B) Initiate a foreclosure action without proof of ownership 1494
as evidenced by a declaration signed under penalty of perjury, 1495
stating that the party in interest has reviewed the original note 1496
and all subsequent assignments and has concluded that the party in 1497
interest owns the note or mortgage; 1498

(C) Fail to provide written notice to the borrower before 1499
acquiring and placing hazard, homeowner's, or flood insurance on a 1500
property or acquiring and placing such insurance if the mortgage 1501
servicer knows, or has reason to know, that a policy for such 1502
insurance is in effect; 1503

(D) Acquire and place hazard, homeowner's, or flood insurance 1504
on a property for an amount that exceeds the greater of the 1505
insurable improvements to the property, the last known coverage 1506
amount that was sufficient to meet the borrower's insurance 1507
obligations, or the unpaid balance owed by the borrower; 1508

(E) Fail to refund unearned premiums for insurance the 1509
mortgage servicer or its agents placed upon the borrower, 1510
providing there is reasonable evidence that the needed coverage 1511
had been obtained, the forced placement is not necessary, and the 1512
property is properly insured in accordance with the loan or note. 1513

Sec. 1323.18. (A) No mortgage servicer shall use unfair, 1514
deceptive or unconscionable means to collect or attempt to collect 1515
any claim in connection with a residential mortgage loan. Without 1516

limiting the general application of the foregoing, the following 1517
actions violate this section: 1518

(1) The collection or the attempt to collect any interest or 1519
other charge, fee, or expense that is incidental to the principal 1520
obligation, unless expressly authorized by the agreement creating 1521
the obligation and by law, including division (A) of section 1522
1323.17 of the Revised Code; 1523

(2) Any communication with a borrower if the mortgage 1524
servicer knows that the borrower is represented by an attorney and 1525
the attorney's name and address are known or could be easily 1526
ascertained. This prohibition does not apply if the borrower's 1527
attorney fails to respond within thirty days to answer 1528
correspondence, return phone calls, or discuss the obligation in 1529
question, or the attorney consents to the servicer having direct 1530
communication with the borrower; 1531

(3) Placing a telephone call or otherwise communicating by 1532
telephone with a borrower or third party, at any place including a 1533
place of employment, and falsely stating that the call is "urgent" 1534
or an "emergency"; 1535

(4) Using profane or obscene language or language that is 1536
intended to unreasonably abuse the listener or reader; 1537

(5) Placing telephone calls without disclosure of the 1538
caller's identity and with the intent to annoy, harass, or 1539
threaten any person at the number called; 1540

(6) Causing expense to any person in the form of long 1541
distance telephone tolls, text messaging fees, or other charges 1542
the servicer causes by concealing the true purpose of the 1543
communication; 1544

(7) Causing a telephone to ring or engaging any person in a 1545
telephone conversation repeatedly or continuously, or at unusual 1546

times or times known to be inconvenient, with the intent to annoy, 1547
abuse, oppress, or threaten any person at the called number. 1548

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(B) The requirements set forth in this section are in 1550
addition to any other requirement set forth in federal or state 1551
law regulating the conduct of collection activities, including the 1552
Federal Fair Debt Collection Practices Act, 91 Stat. 874 (1977), 1553
15 U.S.C. 1692 et seq. 1554

Sec. 1323.19. (A) No mortgage servicer, in conducting a 1555
mortgage servicer business, shall engage in any unfair, deceptive 1556
or unconscionable act in violation of Chapter 1345. of the Revised 1557
Code. Any violation of the sections set forth in division (C), 1558
(D), (F), or (G) of section 1323.15 or section 1323.16, 1323.17, 1559
or 1323.18 of the Revised Code is an unfair and deceptive act or 1560
practice in violation of section 1345.02 of the Revised Code. The 1561
attorney general may take enforcement action and a borrower may 1562
seek recovery under Chapter 1345. of the Revised Code for the 1563
violations set forth in this division. 1564

(B) A borrower injured by a violation of division (A) of this 1565
section may not recover damages, attorney's fees, and costs under 1566
Chapter 1345. of the Revised Code if the borrower has recovered 1567
damages in a cause of action initiated under section 1323.20 of 1568
the Revised Code and the damages sought under Chapter 1345. of the 1569
Revised Code are based on the same acts or circumstances as the 1570
damages awarded under section 1323.20 of the Revised Code. 1571

Sec. 1323.20. (A) A borrower injured by a violation of this 1572
chapter may recover damages in an amount not less than all 1573
improper charges or fees paid to the mortgage servicer, plus 1574
reasonable attorney's fees and court costs, and also may be 1575
awarded punitive damages. 1576

(B) Nothing in this section prevents recovery under division 1577
(B) or (C)(2) of section 1323.03 of the Revised Code. 1578

(C) A borrower may not recover damages, attorney's fees, or 1579
costs under this section if the borrower also recovered damages in 1580
an action initiated under any section of Chapter 1321. or 1345. of 1581
the Revised Code and the damages so awarded were based on the same 1582
acts or circumstances as the damages sought under this section. 1583
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Sec. 1323.99. (A) Whoever violates division (A)(1) or (2) of 1585
section 1323.03, or division (F) or (G) of section 1323.15 of the 1586
Revised Code is guilty of a felony of the fifth degree. 1587

(B) Whoever violates section 1323.13 of the Revised Code with 1588
the intent to interfere or obstruct an examination or 1589
investigation is guilty of a felony of the fourth degree. 1590

Section 2. That existing sections 109.572, 1181.05, 1181.21, 1591
and 1321.52 of the Revised Code are hereby repealed. 1592

Section 3. Section 1323.03 of the Revised Code takes effect 1593
six months after the effective date of this act. During that 1594
six-month period, the Superintendent of Financial Institutions of 1595
the Department of Commerce may take applications for registration 1596
as a mortgage servicer, process the applications, and issue 1597
certificates of registration as the Superintendent is able. During 1598
that time, no mortgage servicer is required to have a certificate 1599
of registration and the Superintendent is not obligated to issue 1600
certificates until the Superintendent is able. 1601