

As Introduced

**130th General Assembly
Regular Session
2013-2014**

H. B. No. 80

Representatives Driehaus, Foley

**Cosponsors: Representatives Boyd, Patterson, Antonio, Ramos, Letson,
Hagan, R., Reece**

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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

(c) If the request is made pursuant to section 3319.39 of the 45
Revised Code for an applicant who is a teacher, any offense 46
specified in section 3319.31 of the Revised Code. 47

(2) On receipt of a request pursuant to section 3712.09 or 48
3721.121 of the Revised Code, a completed form prescribed pursuant 49
to division (C)(1) of this section, and a set of fingerprint 50

impressions obtained in the manner described in division (C)(2) of 51
this section, the superintendent of the bureau of criminal 52
identification and investigation shall conduct a criminal records 53
check with respect to any person who has applied for employment in 54
a position for which a criminal records check is required by those 55
sections. The superintendent shall conduct the criminal records 56
check in the manner described in division (B) of this section to 57
determine whether any information exists that indicates that the 58
person who is the subject of the request previously has been 59
convicted of or pleaded guilty to any of the following: 60

(a) A violation of section 2903.01, 2903.02, 2903.03, 61
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 62
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 63
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 64
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 65
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 66
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 67
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 68
2925.22, 2925.23, or 3716.11 of the Revised Code; 69

(b) An existing or former law of this state, any other state, 70
or the United States that is substantially equivalent to any of 71
the offenses listed in division (A)(2)(a) of this section. 72

(3) On receipt of a request pursuant to section 173.27, 73
173.394, 3701.881, 5111.032, 5111.033, 5111.034, 5123.081, or 74
5123.169 of the Revised Code, a completed form prescribed pursuant 75
to division (C)(1) of this section, and a set of fingerprint 76
impressions obtained in the manner described in division (C)(2) of 77
this section, the superintendent of the bureau of criminal 78
identification and investigation shall conduct a criminal records 79
check of the person for whom the request is made. The 80
superintendent shall conduct the criminal records check in the 81
manner described in division (B) of this section to determine 82

whether any information exists that indicates that the person who 83
is the subject of the request previously has been convicted of, 84
has pleaded guilty to, or has been found eligible for intervention 85
in lieu of conviction for any of the following, regardless of the 86
date of the conviction, the date of entry of the guilty plea, or 87
the date the person was found eligible for intervention in lieu of 88
conviction: 89

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 90
2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 91
2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 92
2905.02, 2905.05, 2905.11, 2905.12, 2905.32, 2905.33, 2907.02, 93
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 94
2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 95
2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 96
2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 97
2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 98
2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 99
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 100
2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 101
2919.22, 2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.12, 102
2921.13, 2921.21, 2921.24, 2921.32, 2921.321, 2921.34, 2921.35, 103
2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 104
2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 105
2925.041, 2925.05, 2925.06, 2925.09, 2925.11, 2925.13, 2925.14, 106
2925.141, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 107
2927.12, or 3716.11 of the Revised Code; 108

(b) Felonious sexual penetration in violation of former 109
section 2907.12 of the Revised Code; 110

(c) A violation of section 2905.04 of the Revised Code as it 111
existed prior to July 1, 1996; 112

(d) A violation of section 2923.01, 2923.02, or 2923.03 of 113
the Revised Code when the underlying offense that is the object of 114

the conspiracy, attempt, or complicity is one of the offenses 115
listed in divisions (A)(3)(a) to (c) of this section; 116

(e) A violation of an existing or former municipal ordinance 117
or law of this state, any other state, or the United States that 118
is substantially equivalent to any of the offenses listed in 119
divisions (A)(3)(a) to (d) of this section. 120

(4) On receipt of a request pursuant to section 2151.86 of 121
the Revised Code, a completed form prescribed pursuant to division 122
(C)(1) of this section, and a set of fingerprint impressions 123
obtained in the manner described in division (C)(2) of this 124
section, the superintendent of the bureau of criminal 125
identification and investigation shall conduct a criminal records 126
check in the manner described in division (B) of this section to 127
determine whether any information exists that indicates that the 128
person who is the subject of the request previously has been 129
convicted of or pleaded guilty to any of the following: 130

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 131
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 132
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 133
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 134
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 135
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 136
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 137
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 138
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 139
of the Revised Code, a violation of section 2905.04 of the Revised 140
Code as it existed prior to July 1, 1996, a violation of section 141
2919.23 of the Revised Code that would have been a violation of 142
section 2905.04 of the Revised Code as it existed prior to July 1, 143
1996, had the violation been committed prior to that date, a 144
violation of section 2925.11 of the Revised Code that is not a 145
minor drug possession offense, two or more OVI or OVUAC violations 146

committed within the three years immediately preceding the 147
submission of the application or petition that is the basis of the 148
request, or felonious sexual penetration in violation of former 149
section 2907.12 of the Revised Code; 150

(b) A violation of an existing or former law of this state, 151
any other state, or the United States that is substantially 152
equivalent to any of the offenses listed in division (A)(4)(a) of 153
this section. 154

(5) Upon receipt of a request pursuant to section 5104.012 or 155
5104.013 of the Revised Code, a completed form prescribed pursuant 156
to division (C)(1) of this section, and a set of fingerprint 157
impressions obtained in the manner described in division (C)(2) of 158
this section, the superintendent of the bureau of criminal 159
identification and investigation shall conduct a criminal records 160
check in the manner described in division (B) of this section to 161
determine whether any information exists that indicates that the 162
person who is the subject of the request has been convicted of or 163
pleaded guilty to any of the following: 164

(a) A violation of section 2903.01, 2903.02, 2903.03, 165
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 166
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 167
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 168
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 169
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 170
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 171
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 172
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 173
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 174
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 175
3716.11 of the Revised Code, felonious sexual penetration in 176
violation of former section 2907.12 of the Revised Code, a 177
violation of section 2905.04 of the Revised Code as it existed 178

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)(5)(a) of this section.

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

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 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, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 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 211
2907.12 of the Revised Code, a violation of section 2905.04 of the 212
Revised Code as it existed prior to July 1, 1996, a violation of 213
section 2919.23 of the Revised Code that would have been a 214
violation of section 2905.04 of the Revised Code as it existed 215
prior to July 1, 1996, had the violation been committed prior to 216
that date, or a violation of section 2925.11 of the Revised Code 217
that is not a minor drug possession offense; 218

(b) A violation of an existing or former law of this state, 219
any other state, or the United States that is substantially 220
equivalent to any of the offenses listed in division (A)(6)(a) of 221
this section. 222

(7) On receipt of a request for a criminal records check from 223
an individual pursuant to section 4749.03 or 4749.06 of the 224
Revised Code, accompanied by a completed copy of the form 225
prescribed in division (C)(1) of this section and a set of 226
fingerprint impressions obtained in a manner described in division 227
(C)(2) of this section, the superintendent of the bureau of 228
criminal identification and investigation shall conduct a criminal 229
records check in the manner described in division (B) of this 230
section to determine whether any information exists indicating 231
that the person who is the subject of the request has been 232
convicted of or pleaded guilty to a felony in this state or in any 233
other state. If the individual indicates that a firearm will be 234
carried in the course of business, the superintendent shall 235
require information from the federal bureau of investigation as 236
described in division (B)(2) of this section. Subject to division 237
(F) of this section, the superintendent shall report the findings 238
of the criminal records check and any information the federal 239
bureau of investigation provides to the director of public safety. 240

(8) On receipt of a request pursuant to section 1321.37, 241
1321.53, 1321.531, 1322.03, 1322.031, 1323.05, or 4763.05 of the 242

Revised Code, a completed form prescribed pursuant to division 243
(C)(1) of this section, and a set of fingerprint impressions 244
obtained in the manner described in division (C)(2) of this 245
section, the superintendent of the bureau of criminal 246
identification and investigation shall conduct a criminal records 247
check with respect to any person who has applied for a license, 248
permit, or certification from the department of commerce or a 249
division in the department. The superintendent shall conduct the 250
criminal records check in the manner described in division (B) of 251
this section to determine whether any information exists that 252
indicates that the person who is the subject of the request 253
previously has been convicted of or pleaded guilty to any of the 254
following: a violation of section 2913.02, 2913.11, 2913.31, 255
2913.51, or 2925.03 of the Revised Code; any other criminal 256
offense involving theft, receiving stolen property, embezzlement, 257
forgery, fraud, passing bad checks, money laundering, or drug 258
trafficking, or any criminal offense involving money or 259
securities, as set forth in Chapters 2909., 2911., 2913., 2915., 260
2921., 2923., and 2925. of the Revised Code; or any existing or 261
former law of this state, any other state, or the United States 262
that is substantially equivalent to those offenses. 263

(9) On receipt of a request for a criminal records check from 264
the treasurer of state under section 113.041 of the Revised Code 265
or from an individual under section 4701.08, 4715.101, 4717.061, 266
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 267
4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 268
4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4755.70, 269
4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 270
4762.06, 4776.021, or 4779.091 of the Revised Code, accompanied by 271
a completed form prescribed under division (C)(1) of this section 272
and a set of fingerprint impressions obtained in the manner 273
described in division (C)(2) of this section, the superintendent 274
of the bureau of criminal identification and investigation shall 275

conduct a criminal records check in the manner described in 276
division (B) of this section to determine whether any information 277
exists that indicates that the person who is the subject of the 278
request has been convicted of or pleaded guilty to any criminal 279
offense in this state or any other state. Subject to division (F) 280
of this section, the superintendent shall send the results of a 281
check requested under section 113.041 of the Revised Code to the 282
treasurer of state and shall send the results of a check requested 283
under any of the other listed sections to the licensing board 284
specified by the individual in the request. 285

(10) On receipt of a request pursuant to section 1121.23, 286
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 287
Code, a completed form prescribed pursuant to division (C)(1) of 288
this section, and a set of fingerprint impressions obtained in the 289
manner described in division (C)(2) of this section, the 290
superintendent of the bureau of criminal identification and 291
investigation shall conduct a criminal records check in the manner 292
described in division (B) of this section to determine whether any 293
information exists that indicates that the person who is the 294
subject of the request previously has been convicted of or pleaded 295
guilty to any criminal offense under any existing or former law of 296
this state, any other state, or the United States. 297

(11) On receipt of a request for a criminal records check 298
from an appointing or licensing authority under section 3772.07 of 299
the Revised Code, a completed form prescribed under division 300
(C)(1) of this section, and a set of fingerprint impressions 301
obtained in the manner prescribed in division (C)(2) of this 302
section, the superintendent of the bureau of criminal 303
identification and investigation shall conduct a criminal records 304
check in the manner described in division (B) of this section to 305
determine whether any information exists that indicates that the 306
person who is the subject of the request previously has been 307

convicted of or pleaded guilty or no contest to any offense under 308
any existing or former law of this state, any other state, or the 309
United States that is a disqualifying offense as defined in 310
section 3772.07 of the Revised Code or substantially equivalent to 311
such an offense. 312

(12) On receipt of a request pursuant to section 2151.33 or 313
2151.412 of the Revised Code, a completed form prescribed pursuant 314
to division (C)(1) of this section, and a set of fingerprint 315
impressions obtained in the manner described in division (C)(2) of 316
this section, the superintendent of the bureau of criminal 317
identification and investigation shall conduct a criminal records 318
check with respect to any person for whom a criminal records check 319
is required by that section. The superintendent shall conduct the 320
criminal records check in the manner described in division (B) of 321
this section to determine whether any information exists that 322
indicates that the person who is the subject of the request 323
previously has been convicted of or pleaded guilty to any of the 324
following: 325

(a) A violation of section 2903.01, 2903.02, 2903.03, 326
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 327
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 328
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 329
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 330
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 331
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 332
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 333
2925.22, 2925.23, or 3716.11 of the Revised Code; 334

(b) An existing or former law of this state, any other state, 335
or the United States that is substantially equivalent to any of 336
the offenses listed in division (A)(12)(a) of this section. 337

(B) Subject to division (F) of this section, the 338
superintendent shall conduct any criminal records check to be 339

conducted under this section as follows: 340

(1) The superintendent shall review or cause to be reviewed 341
any relevant information gathered and compiled by the bureau under 342
division (A) of section 109.57 of the Revised Code that relates to 343
the person who is the subject of the criminal records check, 344
including, if the criminal records check was requested under 345
section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 346
1163.05, 1315.141, 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 347
1323.05, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 348
3701.881, 3712.09, 3721.121, 3772.07, 4749.03, 4749.06, 4763.05, 349
5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 350
5123.169, or 5153.111 of the Revised Code, any relevant 351
information contained in records that have been sealed under 352
section 2953.32 of the Revised Code; 353

(2) If the request received by the superintendent asks for 354
information from the federal bureau of investigation, the 355
superintendent shall request from the federal bureau of 356
investigation any information it has with respect to the person 357
who is the subject of the criminal records check, including 358
fingerprint-based checks of national crime information databases 359
as described in 42 U.S.C. 671 if the request is made pursuant to 360
section 2151.86, 5104.012, or 5104.013 of the Revised Code or if 361
any other Revised Code section requires fingerprint-based checks 362
of that nature, and shall review or cause to be reviewed any 363
information the superintendent receives from that bureau. If a 364
request under section 3319.39 of the Revised Code asks only for 365
information from the federal bureau of investigation, the 366
superintendent shall not conduct the review prescribed by division 367
(B)(1) of this section. 368

(3) The superintendent or the superintendent's designee may 369
request criminal history records from other states or the federal 370
government pursuant to the national crime prevention and privacy 371

compact set forth in section 109.571 of the Revised Code. 372

(4) The superintendent shall include in the results of the 373
criminal records check a list or description of the offenses 374
listed or described in division (A)(1), (2), (3), (4), (5), (6), 375
(7), (8), (9), (10), (11), or (12) of this section, whichever 376
division requires the superintendent to conduct the criminal 377
records check. The superintendent shall exclude from the results 378
any information the dissemination of which is prohibited by 379
federal law. 380

(5) The superintendent shall send the results of the criminal 381
records check to the person to whom it is to be sent not later 382
than the following number of days after the date the 383
superintendent receives the request for the criminal records 384
check, the completed form prescribed under division (C)(1) of this 385
section, and the set of fingerprint impressions obtained in the 386
manner described in division (C)(2) of this section: 387

(a) If the superintendent is required by division (A) of this 388
section (other than division (A)(3) of this section) to conduct 389
the criminal records check, thirty; 390

(b) If the superintendent is required by division (A)(3) of 391
this section to conduct the criminal records check, sixty. 392

(C)(1) The superintendent shall prescribe a form to obtain 393
the information necessary to conduct a criminal records check from 394
any person for whom a criminal records check is to be conducted 395
under this section. The form that the superintendent prescribes 396
pursuant to this division may be in a tangible format, in an 397
electronic format, or in both tangible and electronic formats. 398

(2) The superintendent shall prescribe standard impression 399
sheets to obtain the fingerprint impressions of any person for 400
whom a criminal records check is to be conducted under this 401
section. Any person for whom a records check is to be conducted 402

under this section shall obtain the fingerprint impressions at a 403
county sheriff's office, municipal police department, or any other 404
entity with the ability to make fingerprint impressions on the 405
standard impression sheets prescribed by the superintendent. The 406
office, department, or entity may charge the person a reasonable 407
fee for making the impressions. The standard impression sheets the 408
superintendent prescribes pursuant to this division may be in a 409
tangible format, in an electronic format, or in both tangible and 410
electronic formats. 411

(3) Subject to division (D) of this section, the 412
superintendent shall prescribe and charge a reasonable fee for 413
providing a criminal records check under this section. The person 414
requesting the criminal records check shall pay the fee prescribed 415
pursuant to this division. In the case of a request under section 416
1121.23, 1155.03, 1163.05, 1315.141, 1323.05, 1733.47, 1761.26,
2151.33, 2151.412, or 5111.032 of the Revised Code, the fee shall 418
be paid in the manner specified in that section. 419

(4) The superintendent of the bureau of criminal 420
identification and investigation may prescribe methods of 421
forwarding fingerprint impressions and information necessary to 422
conduct a criminal records check, which methods shall include, but 423
not be limited to, an electronic method. 424

(D) The results of a criminal records check conducted under 425
this section, other than a criminal records check specified in 426
division (A)(7) of this section, are valid for the person who is 427
the subject of the criminal records check for a period of one year 428
from the date upon which the superintendent completes the criminal 429
records check. If during that period the superintendent receives 430
another request for a criminal records check to be conducted under 431
this section for that person, the superintendent shall provide the 432
results from the previous criminal records check of the person at 433
a lower fee than the fee prescribed for the initial criminal 434

records check. 435

(E) When the superintendent receives a request for 436
information from a registered private provider, the superintendent 437
shall proceed as if the request was received from a school 438
district board of education under section 3319.39 of the Revised 439
Code. The superintendent shall apply division (A)(1)(c) of this 440
section to any such request for an applicant who is a teacher. 441

(F)(1) All information regarding the results of a criminal 442
records check conducted under this section that the superintendent 443
reports or sends under division (A)(7) or (9) of this section to 444
the director of public safety, the treasurer of state, or the 445
person, board, or entity that made the request for the criminal 446
records check shall relate to the conviction of the subject 447
person, or the subject person's plea of guilty to, a criminal 448
offense. 449

(2) Division (F)(1) of this section does not limit, restrict, 450
or preclude the superintendent's release of information that 451
relates to an adjudication of a child as a delinquent child, or 452
that relates to a criminal conviction of a person under eighteen 453
years of age if the person's case was transferred back to a 454
juvenile court under division (B)(2) or (3) of section 2152.121 of 455
the Revised Code and the juvenile court imposed a disposition or 456
serious youthful offender disposition upon the person under either 457
division, if either of the following applies with respect to the 458
adjudication or conviction: 459

(a) The adjudication or conviction was for a violation of 460
section 2903.01 or 2903.02 of the Revised Code. 461

(b) The adjudication or conviction was for a sexually 462
oriented offense, as defined in section 2950.01 of the Revised 463
Code, the juvenile court was required to classify the child a 464
juvenile offender registrant for that offense under section 465

2152.82, 2152.83, or 2152.86 of the Revised Code, and that 466
classification has not been removed. 467

(G) As used in this section: 468

(1) "Criminal records check" means any criminal records check 469
conducted by the superintendent of the bureau of criminal 470
identification and investigation in accordance with division (B) 471
of this section. 472

(2) "Minor drug possession offense" has the same meaning as 473
in section 2925.01 of the Revised Code. 474

(3) "OVI or OVUAC violation" means a violation of section 475
4511.19 of the Revised Code or a violation of an existing or 476
former law of this state, any other state, or the United States 477
that is substantially equivalent to section 4511.19 of the Revised 478
Code. 479

(4) "Registered private provider" means a nonpublic school or 480
entity registered with the superintendent of public instruction 481
under section 3310.41 of the Revised Code to participate in the 482
autism scholarship program or section 3310.58 of the Revised Code 483
to participate in the Jon Peterson special needs scholarship 484
program. 485

Sec. 1181.05. (A) As used in this section, "consumer finance 486
company" means any person required to be licensed or registered 487
under Chapter 1321., 1322., 1323., 4712., 4727., or 4728. or 488
sections 1315.21 to 1315.30 of the Revised Code. 489

(B) Neither the superintendent of financial institutions nor 490
any other employee of the division of financial institutions shall 491
do any of the following: be interested, directly or indirectly, in 492
any bank, savings and loan association, savings bank, credit 493
union, or consumer finance company, that is under the supervision 494
of the superintendent of financial institutions; directly or 495

indirectly borrow money from any such financial institution or 496
company; serve as a director or officer of or be employed by any 497
such financial institution or company; or own an equity interest 498
in any such financial institution or company. For purposes of this 499
section, an equity interest does not include the ownership of an 500
account in a mutual savings and loan association or in a savings 501
bank that does not have permanent stock or the ownership of a 502
share account in a credit union. 503

(C) Subject to division (G) of this section, an employee of 504
the division of financial institutions may retain any extension of 505
credit that otherwise would be prohibited by division (B) of this 506
section if both of the following apply: 507

(1) The employee obtained the extension of credit prior to 508
October 29, 1995, or the commencement of the employee's employment 509
with the division, or as a result of a change in the employee's 510
marital status, the consummation of a merger, acquisition, 511
transfer of assets, or other change in corporate ownership beyond 512
the employee's control, or the sale of the extension of credit in 513
the secondary market or other business transaction beyond the 514
employee's control. 515

(2) The employee liquidates the extension of credit under its 516
original terms and without renegotiation. 517

If the employee chooses to retain the extension of credit, 518
the employee shall immediately provide written notice of the 519
retention to the employee's supervisor. Thereafter, the employee 520
shall be disqualified from participating in any decision, 521
examination, audit, or other action that may affect that 522
particular creditor. 523

(D) Subject to division (G) of this section, an employee of 524
the division of financial institutions may retain any ownership of 525
or beneficial interest in the securities of a financial 526

institution or consumer finance company that is under the 527
supervision of the division of financial institutions, or of a 528
holding company or subsidiary of such a financial institution or 529
company, which ownership or beneficial interest otherwise would be 530
prohibited by division (B) of this section, if the ownership or 531
beneficial interest is acquired by the employee through 532
inheritance or gift, prior to October 29, 1995, or the 533
commencement of the employee's employment with the division, or as 534
a result of a change in the employee's marital status or the 535
consummation of a merger, acquisition, transfer of assets, or 536
other change in corporate ownership beyond the employee's control. 537

If the employee chooses to retain the ownership or beneficial 538
interest, the employee shall immediately provide written notice of 539
the retention to the employee's supervisor. Thereafter, the 540
employee shall be disqualified from participating in any decision, 541
examination, audit, or other action that may affect the issuer of 542
the securities. However, if the ownership of or beneficial 543
interest in the securities and the subsequent disqualification 544
required by this division impair the employee's ability to perform 545
the employee's duties, the employee may be ordered to divest self 546
of the ownership of or beneficial interest in the securities. 547

(E) Notwithstanding division (B) of this section, an employee 548
of the division of financial institutions may have an indirect 549
interest in the securities of a financial institution or consumer 550
finance company that is under the supervision of the division of 551
financial institutions, which interest arises through ownership of 552
or beneficial interest in the securities of a publicly held mutual 553
fund or investment trust, if the employee owns or has a beneficial 554
interest in less than five per cent of the securities of the 555
mutual fund or investment trust, and the mutual fund or investment 556
trust is not advised or sponsored by a financial institution or 557
consumer finance company that is under the supervision of the 558

division of financial institutions. If the mutual fund or 559
investment trust is subsequently advised or sponsored by a 560
financial institution or consumer finance company that is under 561
the supervision of the division of financial institutions, the 562
employee shall immediately provide written notice of the ownership 563
of or beneficial interest in the securities to the employee's 564
supervisor. Thereafter, the employee shall be disqualified from 565
participating in any decision, examination, audit, or other action 566
that may affect the financial institution or consumer finance 567
company. However, if the ownership of or beneficial interest in 568
the securities and the subsequent disqualification required by 569
this division impair the employee's ability to perform the 570
employee's duties, the employee may be ordered to divest self of 571
the ownership of or beneficial interest in the securities. 572

(F)(1) For purposes of this section, the interests of an 573
employee's spouse or dependent child arising through the ownership 574
or control of securities shall be considered the interests of the 575
employee, unless the interests are solely the financial interest 576
and responsibility of the spouse or dependent child, the interests 577
are not in any way derived from the income, assets, or activity of 578
the employee, and any financial or economic benefit from the 579
interests is for the personal use of the spouse or dependent 580
child. 581

(2) If an employee's spouse or dependent child obtains 582
interests arising through the ownership or control of securities 583
and, pursuant to division (F)(1) of this section, the interests 584
are not considered the interests of the employee, the employee 585
shall immediately provide written notice of the interests to the 586
employee's supervisor. Thereafter, the employee shall be 587
disqualified from participating in any decision, examination, 588
audit, or other action that may affect the issuer of the 589
securities. 590

(G) For purposes of divisions (C) and (D) of this section, 591
both of the following apply: 592

(1) With respect to any employee of the former division of 593
consumer finance who, on the first day of the first pay period 594
commencing after the effective date of this section, becomes an 595
employee of the division of financial institutions, the employee's 596
employment with the division of financial institutions is deemed 597
to commence on the first day of the first pay period commencing 598
after the effective date of this section. 599

(2) With respect to any employee who, on October 29, 1995, 600
became an employee of the division of financial institutions, the 601
employee may, notwithstanding divisions (C) and (D) of this 602
section, retain any extension of credit by a consumer finance 603
company that was obtained at any time prior to the first day of 604
the first pay period commencing after the effective date of this 605
section, or retain any ownership of or beneficial interest in the 606
securities of a consumer finance company, or of a holding company 607
or subsidiary of such a company, that was acquired at any time 608
prior to the first day of the first pay period commencing after 609
the effective date of this section. If the employee chooses to 610
retain the extension of credit or the ownership or beneficial 611
interest, the employee shall comply with divisions (C) and (D) of 612
this section. 613

Sec. 1181.21. (A) As used in this section, "consumer finance 614
company" has the same meaning as in section 1181.05 of the Revised 615
Code. 616

(B) The superintendent of financial institutions shall see 617
that the laws relating to consumer finance companies are executed 618
and enforced. 619

(C) The deputy superintendent for consumer finance shall be 620
the principal supervisor of consumer finance companies. In that 621

position the deputy superintendent for consumer finance shall, 622
notwithstanding section 1321.421, division (A) of section 1321.76, 623
and sections 1321.07, 1321.55, 1322.06, 1323.12, 4727.05, and 624
4728.05 of the Revised Code, be responsible for conducting 625
examinations and preparing examination reports under those 626
sections. In addition, the deputy superintendent for consumer 627
finance shall, notwithstanding sections 1315.27, 1321.10, 1321.43, 628
1321.54, 1321.77, 1322.12, 1323.11, 4712.14, 4727.13, and 4728.10 629
of the Revised Code, have the authority to adopt rules and 630
standards in accordance with those sections. In performing or 631
exercising any of the examination, rule-making, or other 632
regulatory functions, powers, or duties vested by this division in 633
the deputy superintendent for consumer finance, the deputy 634
superintendent for consumer finance shall be subject to the 635
control of the superintendent of financial institutions and the 636
director of commerce. 637

Sec. 1321.52. (A)(1) No person, on that person's own behalf 638
or on behalf of any other person, shall do any of the following 639
without having first obtained a certificate of registration from 640
the division of financial institutions: 641

(a) Advertise, solicit, or hold out that the person is 642
engaged in the business of making residential mortgage loans 643
secured by a mortgage on a borrower's real estate which is other 644
than a first lien on the real estate; 645

~~(b) Engage in the business of lending or collecting the 646
person's own or another person's money, credit, or choses in 647
action for non-first lien residential mortgage loans; 648~~

~~(c) Employ or compensate mortgage loan originators licensed 649
or who should be licensed under sections 1321.51 to 1321.60 of the 650
Revised Code to conduct the business of making residential 651
mortgage loans; 652~~

~~(d)~~(c) Make loans in this state of the type set forth in 653
division (C) of this section that are unsecured or are secured by 654
other than real property, which loans are for more than five 655
thousand dollars at a rate of interest greater than permitted by 656
section 1343.01 or other specific provisions of the Revised Code. 657

(2) Each person issued a certificate of registration or 658
license is subject to all the rules prescribed under sections 659
1321.51 to 1321.60 of the Revised Code. 660

(B)(1) All loans made to persons who at the time are 661
residents of this state are considered as made within this state 662
and subject to the laws of this state, regardless of any statement 663
in the contract or note to the contrary, except as follows: 664

(a) If the loan is primarily secured by a lien on real 665
property in another state and is arranged by a mortgage loan 666
originator licensed by that state, the borrower may by choice of 667
law designate that the transaction be governed by the law where 668
the real property is located if the other state has consumer 669
protection laws covering the borrower that are applicable to the 670
transaction. 671

(b) If the loan is for the purpose of purchasing goods 672
acquired by the borrower when the borrower is outside of this 673
state, the loan may be governed by the laws of the other state. 674

(2) Nothing in division (B)(1) of this section prevents a 675
choice of law or requires registration or licensure of persons 676
outside of this state in a transaction involving the solicitation 677
of residents of this state to obtain non-real estate secured loans 678
that require the borrowers to physically visit a lender's 679
out-of-state office to apply for and obtain the disbursement of 680
loan funds. 681

(C) A registrant may make unsecured loans, loans secured by a 682
mortgage on a borrower's real estate which is a first lien or 683

other than a first lien on the real estate, loans secured by other 684
than real estate, and loans secured by any combination of 685
mortgages and security interests, on terms and conditions provided 686
by sections 1321.51 to 1321.60 of the Revised Code. 687

(D)(1) If a lender that is subject to sections 1321.51 to 688
1321.60 of the Revised Code makes a loan in violation of division 689
(A)(1) of this section, the lender has no right to collect, 690
receive, or retain any interest or charges on that loan. 691

(2) If a registrant applies to the division for a renewal of 692
the registrant's certificate after the date required by division 693
(A)(7) of section 1321.53 of the Revised Code, but prior to the 694
first day of February of that year, and the division approves the 695
application, division (D)(1) of this section does not apply with 696
respect to any loan made by the registrant while the registrant's 697
certificate was expired. 698

(3) If a person's registration under sections 1321.51 to 699
1321.60 of the Revised Code terminates due to nonrenewal or 700
otherwise but the person continues to engage in the business of 701
collecting or servicing non-first lien residential mortgage loans 702
in violation of division (A)(1) of this section, the 703
superintendent of financial institutions may take administrative 704
action, including action on any subsequent application for a 705
certificate of registration. ~~In addition, no late fee, bad check 706
charge except as incurred, charge related to default or cost to 707
realize on its security interest, or prepayment penalty on 708
non first lien residential mortgage loans shall be collected or 709
retained by a person who is in violation of division (A)(1)(b) of 710
this section for the period of time in which the person was in 711
violation.~~ Nothing in division (D)(3) of this section prevents or 712
otherwise precludes any other actions or penalties provided by law 713
or modifies a defense of holder in due course that a subsequent 714
purchaser servicing the residential mortgage loan may raise. 715

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

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

(3) An individual who holds a valid temporary mortgage loan originator license issued pursuant to section 1321.537 of the Revised Code may engage in the business of a mortgage loan originator in accordance with sections 1321.51 to 1321.60 of the Revised Code during the term of the temporary license.

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

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

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

by division (D)(1) of this section. 747

(2) If a person that is subject to sections 1321.51 to 748
1321.60 of the Revised Code makes a residential mortgage loan in 749
violation of division (A)(1)(b) ~~or (e)~~ of this section and 750
subsequently sells or assigns that loan, the lender is liable to 751
the borrower for any interest paid on that loan to the holder or 752
assignee in excess of the rate set forth in division (B)(4) of 753
section 1343.01 of the Revised Code, in addition to any interest 754
or charges paid on that loan to the unauthorized lender as 755
provided by division (D)(1) of this section. 756

Sec. 1323.01. As used in this chapter: 757

(A) "Mortgage servicer" or "servicer" means a person who 758
engages directly or indirectly, whether for compensation, gain for 759
another, or on the person's own behalf, in the business of 760
receiving scheduled periodic payments from a borrower pursuant to 761
the terms of a residential mortgage loan, including amounts 762
received for deposit in an escrow account, and applying those 763
payments received toward principal, interest, and other 764
obligations of the borrower including amounts to be paid from an 765
escrow account. 766

"Mortgage servicer" includes a person who makes or holds a 767
loan if that person also services the loan. 768

"Mortgage servicer" does not include any of the following: 769

(1) The federal deposit insurance corporation or the 770
resolution trust corporation, in connection with assets acquired, 771
assigned, sold, or transferred pursuant to the "Federal Deposit 772
Insurance Corporation Act," 64 Stat. 873 (1950), 12 U.S.C. 773
1823(c), or as receiver or conservator of an insured depository 774
institution; 775

(2) The government national mortgage association, the federal 776

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: 777
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(a) Termination of the contract for servicing the loan for cause; 782
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(b) Commencement of proceedings for bankruptcy of the servicer; 784
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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. 786
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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; 790
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(4) Any political subdivision or any public agency of the United States or any state. 794
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(B) "Mortgage lender" means a person engaged in the business of making residential mortgage loans for compensation or gain. 796
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(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. 798
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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 803
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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. 807
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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. 810
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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. 813
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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. 816
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Sec. 1323.02. (A) This chapter shall be known as the "residential mortgage servicers registration act." 820
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(B) This chapter does not apply to any of the following: 822

(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; 823
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(2) Life, property, or casualty insurance companies licensed to do business in this state; 827
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(3) Any attorney or law firm acting on behalf of any mortgage note holder or mortgage servicer when acting in connection with the practice of law in this state, except as otherwise provided in division (D) of this section; 829
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(4) Any political subdivision, or any governmental or other public agency, corporation, or instrumentality in or of the United States or any state; 833
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(5) An institution of higher education as defined in section 1713.01 of the Revised Code; 836
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(6) A debt collector acting under the name of, and as agent for, a mortgage servicer registrant to collect a debt in default. 838
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(C) Mortgage lenders registered under section 1321.52 of the Revised Code and mortgage brokers registered under section 1322.02 of the Revised Code are exempt from the registration requirements of section 1323.03 of the Revised Code but shall comply with divisions (C), (D), (F), and (G) of section 1323.15, and sections 1323.16, 1323.17, and 1323.18 of the Revised Code in connection with the servicing of residential mortgage loans. Any violation of these sections is an unfair and deceptive practice in violation of section 1345.02 of the Revised Code and may result in administrative action and penalties the superintendent of financial institutions of the department of commerce imposes pursuant to sections 1321.54 and 1322.10 of the Revised Code. 840
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(D) Any attorney or law firm primarily engaged in debt collection shall comply with division (D) of section 1323.15 and section 1323.18 of the Revised Code when acting as a mortgage servicer, notwithstanding the general exemption from this chapter. Any violation by an attorney of division (D) of section 1323.15 or section 1323.18 of the Revised Code, in connection with any debt collection activity that is not considered the practice of law, is deemed to be an unfair and deceptive practice in violation of section 1345.02 of the Revised Code. 852
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Sec. 1323.03. (A) No person, on that person's own behalf or on behalf of any other person, shall do either of the following unless that person is registered as a mortgage servicer and has a certificate of registration from the superintendent of financial institutions of the department of commerce: 861
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(1) Engage in the business of collecting money, credit, or 866

chooses in action for residential mortgage loans or otherwise act 867
as a mortgage servicer; 868

(2) Collect accelerated mortgage payments from a biweekly or 869
other accelerated payment plan that the person operates, arranges, 870
or offers to arrange for compensation or gain in connection with a 871
residential mortgage loan. 872

(B) Any person who acts in willful violation of division (A) 873
of this section, after receiving written notice of the violation 874
from the superintendent or a court, may not collect any amounts as 875
interest or charges on that loan. Any amounts collected shall be 876
credited as a principal reduction to the loan. 877

(C)(1) When a registration expires for any reason and the 878
former registrant continues to service residential mortgage loans 879
in violation of division (A) of this section, the superintendent 880
may take administrative action, including action on any subsequent 881
application for a certificate of registration. 882

(2) A servicer with an expired registration may not collect, 883
charge, or retain any late fee, bad check charge except as 884
incurred, charge related to default, cost to realize on its 885
security interest, or prepayment penalty on any residential 886
mortgage loan unless that servicer applies to the superintendent 887
for a registration renewal and a certificate of registration prior 888
to the first day of August of the year the registration expires 889
and the superintendent approves that application. 890

(D) No person shall conduct the business of a mortgage 891
servicer in association with any exempt business if the 892
superintendent has ordered that exempt business, in writing, to 893
desist from conduct that the superintendent found to be a mere 894
conduit for the mortgage servicer and that the association of the 895
servicer and the exempt business is intended to conceal an evasion 896
of this chapter or the rules adopted under it. Any determination 897

made pursuant to this division shall be made in accordance with 898
Chapter 119. of the Revised Code. 899

Sec. 1323.04. (A) Any application for registration as a 900
mortgage servicer shall be in writing, under oath, and in the form 901
the superintendent of financial institutions of the department of 902
commerce prescribes. It shall contain an undertaking by the 903
applicant to abide by this chapter and any other information that 904
the superintendent requires. Applicants that are foreign 905
corporations shall obtain and maintain a license pursuant to 906
Chapter 1703. of the Revised Code before seeking registration or 907
registration renewal as a mortgage servicer. 908

(B) Upon an applicant's filing an application and paying a 909
nonrefundable two-hundred-dollar investigation fee, a 910
nonrefundable one-thousand-dollar annual registration fee, and any 911
additional fee required by law, the superintendent shall 912
investigate the relevant facts. If the application requires 913
investigation outside this state, the applicant may be required to 914
advance sufficient funds to pay any of the actual expenses when it 915
appears that these expenses will exceed two hundred dollars. The 916
superintendent shall furnish an itemized statement of any expenses 917
the applicant is required to pay. The superintendent shall not 918
issue any certificate of registration unless all the required fees 919
have been paid. 920

(C) An applicant shall designate an employee or owner who has 921
at least three years' experience in the mortgage, collections, 922
servicing, or lending field as the applicant's operations manager. 923
No operations manager shall be employed by any other mortgage 924
servicer while acting as an operations manager. Any operations 925
manager must be acceptable to the superintendent. 926

(D) The superintendent may consider an application for 927
registration as a mortgage servicer withdrawn if that application 928

does not contain all of the information required under division 929
(A) of this section and the applicant does not submit that 930
information within ninety days after the superintendent requests 931
the information in writing. 932

(E) The superintendent of financial institutions shall 933
deposit any licensing fee, charge, or fine received pursuant to 934
this chapter into the consumer finance fund in the state treasury, 935
created under section 1321.21 of the Revised Code, unless 936
otherwise specified by law. 937

Sec. 1323.05. (A)(1) Any investigation the superintendent of 938
financial institutions of the department of commerce undertakes 939
with respect to an application for registration as a mortgage 940
servicer shall include a civil records check of the applicant, 941
including any individual whose identity is required to be 942
disclosed in the application, and criminal records check at the 943
time of the initial application and every five years thereafter, 944
or upon a change of control of the registrant if the persons 945
acquiring control have not had a criminal records check submitted 946
to the superintendent within the past five years. 947

(2) Where the applicant is a business entity, the 948
superintendent may require a civil and criminal background check 949
of those persons that the superintendent determines have the 950
authority to direct and control the operations of the applicant. 951

(B) When conducting a criminal background check, the 952
superintendent shall request the superintendent of the bureau of 953
criminal identification and investigation, or a vendor the 954
superintendent approves, to conduct a criminal records check based 955
on the applicant's fingerprints or if fingerprints are unreadable, 956
based on the applicant's social security number in accordance with 957
division (A)(8) of section 109.572 of the Revised Code. 958
Notwithstanding division (K) of section 121.08 of the Revised 959

Code, the superintendent of financial institutions shall request 960
that criminal record information from the federal bureau of 961
investigation be obtained as part of the criminal records check. 962

(C) The applicant shall pay any fee required under division 963
(C)(3) of section 109.572 of the Revised Code. 964

Sec. 1323.06. (A) The superintendent of financial 965
institutions of the department of commerce shall issue a 966
certificate of registration as a mortgage servicer to an applicant 967
if the superintendent finds that the applicant's financial 968
responsibility, experience, character, and general fitness command 969
the confidence of the public and warrant the belief that the 970
business will be operated honestly and fairly in compliance with 971
the purposes of this chapter and the rules adopted under it, and 972
that the applicant has the requisite bond or applicable net worth 973
as this chapter requires. 974

(B) Upon finding an applicant does not meet the conditions 975
set forth in this chapter, the superintendent shall issue a notice 976
of intent to deny an application for registration or renewal. The 977
superintendent shall immediately notify the applicant of the 978
denial, the grounds for the denial, and the applicant's 979
opportunity to be heard on the action in accordance with Chapter 980
119. of the Revised Code. 981

(C) Any certificate issued pursuant to this section shall 982
expire on the first day of July next after its issue, and on the 983
first day of July in each succeeding year unless renewed by filing 984
a renewal application and payment of an annual fee and any 985
additional fee required by law, on or before the last day of June 986
of each year. 987

Sec. 1323.07. (A) To renew a registration as a mortgage 988
servicer, a registrant shall timely file a renewal application on 989

a form the superintendent of financial institutions of the 990
department of commerce prescribes, along with any additional 991
information that the superintendent requires. 992

(B) As a condition of renewal, a registrant must provide 993
proof that the designated operations manager meets the criteria 994
for initial approval set forth in section 1323.05 of the Revised 995
Code and that the mortgage servicer meets the minimum standards 996
for the issuance of the certificate of registration under sections 997
1323.04 to 1323.06 of the Revised Code. 998

(C) The superintendent shall not grant any renewal if the 999
applicant's certificate of registration is subject to an order of 1000
suspension, revocation, or an unpaid and past due fine the 1001
superintendent has imposed. 1002

(D) If an application for renewal of a certificate of 1003
registration does not contain all the information this section 1004
requires, and if the registrant does not submit that information 1005
to the superintendent within ninety days after the superintendent 1006
requests the information in writing, the superintendent may 1007
consider the application withdrawn. 1008

Sec. 1323.08. At any time there is a change of five per cent 1009
or more in the ownership of a registrant, the superintendent of 1010
financial institutions of the department of commerce may make any 1011
investigation necessary to determine whether any fact or condition 1012
presently exists that would have warranted the superintendent 1013
denying the original application had the fact or condition existed 1014
at the time of that application. If the superintendent finds such 1015
a fact or condition, the superintendent may revoke the 1016
registrant's registration and certificate pursuant to Chapter 119. 1017
of the Revised Code. 1018

Sec. 1323.09. (A) Each place of business to which borrowers 1019

are regularly directed to remit payment shall display its own 1020
certificate of registration. The superintendent of financial 1021
institutions of the department of commerce may issue additional 1022
certificates of registration to the same person for additional 1023
places of business upon compliance with the requirements governing 1024
the issuance of a single certificate. 1025

(B)(1) Any change in the place of business to a location 1026
outside the original municipal corporation requires a new 1027
certificate of registration. A registrant who makes such a change 1028
of location shall submit a new application, pay the registration 1029
fee and, if the superintendent requires, pay an investigation fee 1030
of two hundred dollars. The registrant must have the new 1031
certificate before operating in the new location. 1032

(2) A registrant who wishes to change its place of business 1033
within the same municipal corporation shall give written notice of 1034
the change in advance to the superintendent, who shall provide a 1035
certificate for the new address without cost. 1036

(C) A registrant that changes its name shall give written 1037
notice of the change to the superintendent prior to acting as a 1038
mortgage servicer under the new name. The superintendent shall 1039
provide a certificate in the new name without cost. 1040

(D) A registrant shall keep each certificate conspicuously 1041
posted in each place of business. A certificate of registration is 1042
not transferable or assignable. 1043

Sec. 1323.10. (A) Any person who acts as a mortgage servicer, 1044
if not bonded pursuant to division (B) of this section, shall 1045
maintain at all times both of the following: 1046

(1) A net worth of at least two hundred fifty thousand 1047
dollars; 1048

(2) For each additional certificate of registration beyond 1049

the first, assets of at least fifty thousand dollars either in use 1050
or readily available for use in the conduct of the business. 1051

(B) Any person acting as a mortgage servicer by arranging 1052
biweekly or other accelerated payment plans and collecting those 1053
payments shall obtain and maintain in effect at all times a 1054
corporate surety bond issued by a bonding company or insurance 1055
company authorized to do business in this state. The servicer 1056
shall file a copy of the bond with the superintendent of financial 1057
institutions of the department of commerce. The bond shall meet 1058
all of the following conditions: 1059

(1) Be in favor of the superintendent; 1060

(2) Have a base penal sum of two hundred fifty thousand 1061
dollars for the first location and an additional penal sum of ten 1062
thousand dollars for each additional location that requires a 1063
separate certificate of registration; 1064

(3) Have a term that coincides with the term of registration; 1065

(4) Be for the exclusive benefit of any individual borrower 1066
injured by any violation of this chapter or the rules adopted 1067
under it by a servicer, its employees, or agent; 1068

(5) Have an aggregate liability of the corporate surety for 1069
any and all breaches of the conditions of the bond not to exceed 1070
the penal sum of the bond. 1071

(C)(1) A mortgage servicer shall give notice to the 1072
superintendent by certified mail of any action that is brought by 1073
a borrower against the servicer alleging injury by a violation of 1074
this chapter and of any judgment that is entered against the 1075
servicer by a borrower injured by that violation. The notice shall 1076
provide details sufficient to identify the action or judgment. The 1077
servicer shall file the notice with the superintendent within ten 1078
days after the commencement of the action or receipt of the notice 1079
of entry of a judgment. 1080

(2) A corporate surety shall give notice of any payment to 1081
the superintendent by certified mail within ten days after it pays 1082
any claim or judgment, with details sufficient to identify the 1083
person and the claim or judgment paid. 1084

(D) Whenever the penal sum of the corporate surety bond is 1085
reduced by one or more recoveries or payments, a servicer shall 1086
furnish a new or additional bond under this section, so that the 1087
total or aggregate penal sum of the bond or bonds equals the sum 1088
required by this section, or shall furnish an endorsement executed 1089
by the corporate surety reinstating the bond to the required penal 1090
sum set forth in division (B) of this section. 1091

(E) The liability of the corporate surety on the bond to the 1092
superintendent and to any borrower injured by a violation of this 1093
chapter is not affected in any way by any misrepresentation, 1094
breach of warranty, or failure to pay the premium, by any act or 1095
omission upon the part of the servicer, by the insolvency or 1096
bankruptcy of the servicer, or by the insolvency of the servicer's 1097
estate. The servicer shall maintain in effect liability for any 1098
act or omission that occurs during the term of the corporate 1099
surety bond for at least two years after the date on which the 1100
corporate surety bond is terminated or canceled. 1101

(F) Neither the servicer nor the corporate surety shall 1102
cancel a corporate surety bond except upon notice to the 1103
superintendent by certified mail, return receipt requested. A 1104
cancellation is not effective until thirty days after the 1105
superintendent receives the notice. 1106

(G) No servicer shall fail to comply with this section. Any 1107
servicer that fails to comply shall cease acting as a mortgage 1108
servicer in this state until that servicer complies with this 1109
section. 1110

Sec. 1323.11. (A) The superintendent of financial 1111

institutions of the department of commerce may adopt, in 1112
accordance with Chapter 119. of the Revised Code, rules to 1113
administer and enforce this chapter and to carry out its purposes. 1114

(B) The superintendent may investigate alleged violations of 1115
this chapter or the rules adopted under it, or complaints 1116
concerning any violation. In conducting an investigation, the 1117
superintendent, by subpoena, may compel witnesses to testify in 1118
relation to any matter over which the superintendent has 1119
jurisdiction, and may require the production or photocopying of 1120
any book, record, or other document pertaining to such matter. If 1121
a person fails to comply with the subpoena, or permit photocopying 1122
of any document subpoenaed, a court of common pleas, upon the 1123
superintendent's application, shall compel obedience by attachment 1124
proceedings for contempt or a refusal to testify. 1125

(C)(1) In accordance with Chapter 119. of the Revised Code, 1126
the superintendent may revoke, suspend, or refuse to renew any 1127
registration issued under this chapter if the superintendent finds 1128
any of the following: 1129

(a) A violation of or failure to comply with any provision of 1130
this chapter or the rules adopted under it, Chapter 1345. of the 1131
Revised Code, federal debt collection laws, or any other law 1132
applicable to the business the registrant conducts under the 1133
registrant's certificate of registration; 1134

(b) The registrant has been convicted of or pleaded guilty or 1135
no contest in a domestic, foreign, or military court to any felony 1136
or any criminal offense involving theft, receiving stolen 1137
property, embezzlement, forgery, fraud, passing bad checks, money 1138
laundering, breach of trust, dishonesty, or drug trafficking, or 1139
any criminal offense involving money or securities; 1140

(c) The registrant's certificate of registration, license, or 1141
comparable authority as a mortgage servicer has been revoked in 1142

any other state. 1143

(2) The superintendent may impose a monetary fine pursuant to 1144
division (F) of this section in addition to, or instead of, any 1145
revocation, suspension, or denial or in settlement of matters 1146
subject to claims under division (C)(1)(a) of this section. 1147

(3) Except as otherwise provided in section 1323.03 of the 1148
Revised Code, the revocation, suspension, or refusal to renew a 1149
registration does not impair the obligation of any pre-existing 1150
lawful contract made under this chapter if a mortgage servicer 1151
makes a good faith effort to promptly transfer its collection 1152
rights to a registrant or person exempt from registration. A 1153
servicer that does not make the requisite good faith effort is 1154
subject to additional monetary fines and legal or administrative 1155
action by the superintendent. 1156

(4) Nothing in division (C) of this section limits a court's 1157
ability to impose a cease and desist order preventing any further 1158
business or servicing activity. 1159

(D) The superintendent may apply to the court of common pleas 1160
for an order enjoining any violation of this chapter. Upon a 1161
showing that a person has committed or is about to commit a 1162
violation of this chapter, the court shall grant an injunction, 1163
restraining order, or other appropriate relief. If the application 1164
to a court is for an order enjoining a person from acting as a 1165
registrant or mortgage servicer in violation of division (A) of 1166
section 1323.03 of the Revised Code, the superintendent may 1167
request, and the court may impose, a civil penalty for that 1168
unregistered or unlicensed conduct in an amount not to exceed five 1169
thousand dollars per violation. 1170

(E) The superintendent may issue a cease and desist order if 1171
the superintendent determines that a person is engaged in or may 1172
be engaged in activities that violate this chapter or the rules 1173

adopted under it, after notice and a hearing conducted in 1174
accordance with Chapter 119. of the Revised Code. 1175

(F)(1) The superintendent may impose a fine of not more than 1176
one thousand dollars for each day a violation of this chapter or 1177
the rules adopted under it is committed, repeated, or continued. 1178
In determining the amount of a fine to impose, the superintendent 1179
may consider all of the following: 1180

(a) The seriousness of the violation; 1181

(b) The servicer's good faith efforts to prevent the 1182
violation; 1183

(c) The servicer's history regarding violations and 1184
compliance with the superintendent's orders; 1185

(d) The servicer's financial resources; 1186

(e) Any other matters the superintendent considers 1187
appropriate in enforcing this chapter. 1188

(2) Monetary fines imposed under this section do not preclude 1189
any criminal fine described in section 1323.99 of the Revised 1190
Code. 1191

(G) All fines collected pursuant to this section shall be 1192
paid to the treasurer of state to the credit of the consumer 1193
finance fund created in section 1321.21 of the Revised Code. 1194

Sec. 1323.12. (A)(1) A mortgage servicer shall keep separate 1195
records pertaining to each loan serviced. The servicer shall 1196
preserve those records for so long as the servicer has 1197
responsibility for the loan and retain copies of those records for 1198
at least four years even if the servicer transfers the original 1199
copies for any reason. At any time responsibility for the loan is 1200
transferred to another servicer, the servicer who is ceasing 1201
responsibility shall transfer all original loan documents and 1202
records to the servicer who is assuming responsibility for the 1203

loan. Any system of electronic imaging of required records shall 1204
be approved by the superintendent of financial institutions of the 1205
department of commerce prior to its use but at no time shall such 1206
a system be a substitute for maintaining original documents as 1207
this section requires. 1208

(2) As often as necessary, the superintendent may make or 1209
cause to be made an examination of records pertaining to loans 1210
serviced for the purpose of determining whether the servicer is 1211
complying with this chapter and of verifying any registrant's 1212
annual report. 1213

(B)(1) The superintendent may require each servicer to file 1214
each year a report under oath or affirmation, on forms the 1215
superintendent supplies, concerning the business and operations 1216
for the preceding calendar year. A servicer that operates two or 1217
more registered offices or who operates registered offices with 1218
one or more affiliated servicers, may file a composite report of 1219
the group of registered offices in lieu of individual reports. 1220

(2) The reports provided under division (B)(1) of this 1221
section are not public records as defined in section 149.43 of the 1222
Revised Code and are not open to public inspection. 1223

(C)(1) The following information is confidential: 1224

(a) Examination information, and any information leading to 1225
or arising from an examination; 1226

(b) Investigation information, and any information arising 1227
from or leading to an investigation. 1228

(2) The information described in division (C) of this section 1229
is confidential for all purposes except when it is necessary for 1230
the superintendent to take official action regarding the affairs 1231
of a servicer or in connection with criminal or civil proceedings 1232
to be initiated by a prosecuting attorney or the attorney general. 1233

This information may be introduced into evidence or disclosed 1234
pursuant to section 1181.25 of the Revised Code. 1235

(D) All application information is a public record as defined 1236
in section 149.43 of the Revised Code, except social security 1237
numbers, employer identification numbers, financial account 1238
numbers, the identity of the institution where financial accounts 1239
are maintained, personal financial information, fingerprint cards 1240
and the information contained on such cards, and criminal 1241
background information. 1242

(E) Nothing in this section prevents the superintendent from 1243
releasing information relating to servicers or exchanging that 1244
information with other financial institution regulatory 1245
authorities. For this purpose, a "financial institution regulatory 1246
authority" includes a regulator of a business activity in which a 1247
servicer is engaged or has applied to engage, to the extent that 1248
the regulator has jurisdiction over a servicer engaged in that 1249
business activity. A servicer is engaged in a business activity, 1250
and a regulator of that business activity has jurisdiction over 1251
the servicer, whether the servicer conducts the activity directly 1252
or a subsidiary or affiliate of the servicer conducts the 1253
activity. 1254

(F) Nothing in this section prevents the superintendent of 1255
financial institutions from releasing information relating to 1256
mortgage servicers to the attorney general, to the superintendent 1257
of real estate and professional licensing of the department of 1258
commerce for purposes relating to the administration of Chapters 1259
4735. and 4763. of the Revised Code, to the superintendent of 1260
insurance for purposes relating to the administration of Chapter 1261
3953. of the Revised Code, to the commissioner of securities of 1262
the department of commerce for purposes relating to the 1263
administration of Chapter 1707. of the Revised Code, or to local 1264
law enforcement agencies and local prosecutors. Information 1265

released pursuant to this section remains confidential. The 1266
superintendent of financial institutions, by rule, may designate 1267
additional state agencies and regulatory authorities as entities 1268
with which to share this confidential information. 1269

Sec. 1323.13. No person, in connection with any examination 1270
or investigation conducted by the superintendent of financial 1271
institutions of the department of commerce under this chapter, 1272
shall knowingly do any of the following: 1273

(A) Circumvent, interfere with, obstruct, or fail to 1274
cooperate, including making a false or misleading statement, 1275
failing to produce records, or intimidating or suborning any 1276
witness; 1277

(B) Withhold, abstract, remove, mutilate, destroy, or secrete 1278
any books, records, computer records, or other information; 1279

(C) Tamper with, alter, or manufacture any evidence. 1280

Sec. 1323.14. (A) No mortgage servicer, through its 1281
operations manager or otherwise, shall fail to reasonably 1282
supervise persons the servicer employs or associates with, or to 1283
establish reasonable procedures to avoid violations of this 1284
chapter or the rules adopted under it, violations of applicable 1285
state and federal consumer and lending laws or rules by persons 1286
the servicer employs or associates with. 1287

(B) Within ten business days of any change in a mortgage 1288
servicer's statutory agent designation or address, the servicer 1289
shall file with the superintendent of financial institutions of 1290
the department of commerce evidence that the servicer has filed 1291
such changes with the secretary of state. 1292

(C)(1) At least thirty days prior to the closure of a 1293
registered office location, a mortgage servicer shall notify the 1294
superintendent by filing a notice of closure on a form approved by 1295

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. 1296
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(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. 1301
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(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. 1304
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Sec. 1323.15. (A) No mortgage servicer shall refuse to provide information regarding the amount required to pay in full a residential mortgage loan when the borrower or a person the borrower designates makes that request in writing. The servicer shall provide the requested payoff statement without charge one time 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. The servicer shall provide any payoff statement within five business days of the request. 1311
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(B) No mortgage servicer shall obtain a certificate of registration through any false or fraudulent representation of a material fact or any omission of a material fact required by state or federal law, or make any substantial misrepresentation in the registration application. 1321
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(C) No mortgage servicer shall make false or misleading 1326

statements of a material fact, omissions of statements required by 1327
state or federal law, or false promises regarding a material fact, 1328
through advertising or other means, or engage in a continued 1329
course of misrepresentations. 1330

(D) No mortgage servicer shall engage in conduct that 1331
constitutes improper, fraudulent, or dishonest dealings. 1332

(E) No mortgage servicer or applicant for registration shall 1333
fail to notify the superintendent of financial institutions of the 1334
department of commerce within thirty days after the servicer or 1335
applicant has: 1336

(1) Been convicted of or pleaded guilty or no contest in a 1337
domestic, foreign, or military court to any felony; 1338

(2) Been convicted of or pleaded guilty or no contest in a 1339
domestic, foreign, or military court to any criminal offense 1340
involving theft, receiving stolen property, embezzlement, forgery, 1341
fraud, passing bad checks, money laundering, breach of trust, 1342
dishonesty, or drug trafficking, or any criminal offense involving 1343
money or securities; 1344

(3) Had a mortgage servicer registration, license, or 1345
comparable authority revoked in any other state. 1346

(F) No mortgage servicer shall knowingly make, propose, or 1347
solicit fraudulent, false, or misleading statements on any 1348
mortgage servicing document or on any document related to an 1349
accounting of payments remitted or disbursed. For purposes of this 1350
division, "fraudulent, false, or misleading statements" does not 1351
include mathematical errors, inadvertent transposition of numbers, 1352
typographical errors, or any other bona fide error. 1353

(G) No mortgage servicer shall knowingly instruct, solicit, 1354
propose, or otherwise cause a borrower to sign in blank a 1355
document. 1356

Sec. 1323.16. (A) In addition to the duties imposed by common law or state or federal law, in the course of servicing residential mortgage loans in this state, a mortgage servicer shall do all of the following: 1357

(1) Act with good faith and fair dealing in any transaction, practice, or course of business associated with servicing; 1358

(2) Act with reasonable skill, care, and diligence; 1359

(3) Act in good faith to provide the borrower with the facts relating to the nature and extent of any delinquency or default and the amounts owed or necessary to reinstate the loan or cure the default; 1360

(4) Subject to the servicer's duties and obligations under its mortgage servicing contract, attempt a resolution, modification, or workout to the delinquency of a borrower who requests assistance; 1361

(5) Make a good faith effort to correct any erroneous information it has provided to any credit reporting agency; 1362

(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. 1363

(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; 1364

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(8) Accept and credit each residential mortgage loan payment 1387
received on the date received; 1388

(9) Take all steps necessary to terminate a foreclosure 1389
action when the condition giving rise to action has been fully 1390
cured. Upon cure of a default, the servicer shall reinstate the 1391
borrower to the same position as if the default had not occurred, 1392
and nullify, as of the date of the cure, any acceleration of any 1393
obligation under the residential mortgage loan or note arising 1394
from the default. 1395

(10) In addition to the duties enumerated in this chapter, 1396
any mortgage servicer for a government-insured loan shall comply 1397
with the loss mitigation standards and guidelines as required by 1398
the insuring entity. 1399

(B) When establishing a loan modification solution for a 1400
borrower, a mortgage servicer shall seek to achieve long-term 1401
sustainability for the borrower. 1402

Sec. 1323.17. No mortgage servicer shall do any of the 1403
following in connection with a residential mortgage loan: 1404

(A) Collect, charge, or retain any fee from the borrower 1405
unless the fee is reasonable, for a bona fide service rendered, 1406
and specifically authorized by the residential mortgage loan and 1407
permitted by law; 1408

(B) Initiate a foreclosure action without proof of ownership 1409
as evidenced by a declaration signed under penalty of perjury, 1410
stating that the party in interest has reviewed the original note 1411
and all subsequent assignments and has concluded that the party in 1412
interest owns the note or mortgage; 1413

(C) Fail to provide written notice to the borrower before 1414
acquiring and placing hazard, homeowner's, or flood insurance on a 1415
property or acquiring and placing such insurance if the mortgage 1416

servicer knows, or has reason to know, that a policy for such 1417
insurance is in effect; 1418

(D) Acquire and place hazard, homeowner's, or flood insurance 1419
on a property for an amount that exceeds the greater of the 1420
insurable improvements to the property, the last known coverage 1421
amount that was sufficient to meet the borrower's insurance 1422
obligations, or the unpaid balance owed by the borrower; 1423

(E) Fail to refund unearned premiums for insurance the 1424
mortgage servicer or its agents placed upon the borrower, 1425
providing there is reasonable evidence that the needed coverage 1426
had been obtained, the forced placement is not necessary, and the 1427
property is properly insured in accordance with the loan or note. 1428

Sec. 1323.18. (A) No mortgage servicer shall use unfair, 1429
deceptive or unconscionable means to collect or attempt to collect 1430
any claim in connection with a residential mortgage loan. Without 1431
limiting the general application of the foregoing, the following 1432
actions violate this section: 1433

(1) The collection or the attempt to collect any interest or 1434
other charge, fee, or expense that is incidental to the principal 1435
obligation, unless expressly authorized by the agreement creating 1436
the obligation and by law, including division (A) of section 1437
1323.17 of the Revised Code; 1438

(2) Any communication with a borrower if the mortgage 1439
servicer knows that the borrower is represented by an attorney and 1440
the attorney's name and address are known or could be easily 1441
ascertained. This prohibition does not apply if the borrower's 1442
attorney fails to respond within thirty days to answer 1443
correspondence, return phone calls, or discuss the obligation in 1444
question, or the attorney consents to the servicer having direct 1445
communication with the borrower; 1446

(3) Placing a telephone call or otherwise communicating by telephone with a borrower or third party, at any place including a place of employment, and falsely stating that the call is "urgent" or an "emergency"; 1447
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(4) Using profane or obscene language or language that is intended to unreasonably abuse the listener or reader; 1451
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(5) Placing telephone calls without disclosure of the caller's identity and with the intent to annoy, harass, or threaten any person at the number called; 1453
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(6) Causing expense to any person in the form of long distance telephone tolls, text messaging fees, or other charges the servicer causes by concealing the true purpose of the communication; 1456
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(7) Causing a telephone to ring or engaging any person in a telephone conversation repeatedly or continuously, or at unusual times or times known to be inconvenient, with the intent to annoy, abuse, oppress, or threaten any person at the called number. 1460
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(B) The requirements set forth in this section are in addition to any other requirement set forth in federal or state law regulating the conduct of collection activities, including the Federal Fair Debt Collection Practices Act, 91 Stat. 874 (1977), 15 U.S.C. 1692 et seq. 1464
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Sec. 1323.19. (A) No mortgage servicer, in conducting a mortgage servicer business, shall engage in any unfair, deceptive or unconscionable act in violation of Chapter 1345. of the Revised Code. Any violation of the sections set forth in division (C), (D), (F), or (G) of section 1323.15 or section 1323.16, 1323.17, or 1323.18 of the Revised Code is an unfair and deceptive act or practice in violation of section 1345.02 of the Revised Code. The attorney general may take enforcement action and a borrower may 1469
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seek recovery under Chapter 1345. of the Revised Code for the 1477
violations set forth in this division. 1478

(B) A borrower injured by a violation of division (A) of this 1479
section may not recover damages, attorney's fees, and costs under 1480
Chapter 1345. of the Revised Code if the borrower has recovered 1481
damages in a cause of action initiated under section 1323.20 of 1482
the Revised Code and the damages sought under Chapter 1345. of the 1483
Revised Code are based on the same acts or circumstances as the 1484
damages awarded under section 1323.20 of the Revised Code. 1485

Sec. 1323.20. (A) A borrower injured by a violation of this 1486
chapter may recover damages in an amount not less than all 1487
improper charges or fees paid to the mortgage servicer, plus 1488
reasonable attorney's fees and court costs, and also may be 1489
awarded punitive damages. 1490

(B) Nothing in this section prevents recovery under division 1491
(B) or (C)(2) of section 1323.03 of the Revised Code. 1492

(C) A borrower may not recover damages, attorney's fees, or 1493
costs under this section if the borrower also recovered damages in 1494
an action initiated under any section of Chapter 1321. or 1345. of 1495
the Revised Code and the damages so awarded were based on the same 1496
acts or circumstances as the damages sought under this section. 1497

Sec. 1323.99. (A) Whoever violates division (A)(1) or (2) of 1498
section 1323.03, or division (F) or (G) of section 1323.15 of the 1499
Revised Code is guilty of a felony of the fifth degree. 1500

(B) Whoever violates section 1323.13 of the Revised Code with 1501
the intent to interfere or obstruct an examination or 1502
investigation is guilty of a felony of the fourth degree. 1503

Section 2. That existing sections 109.572, 1181.05, 1181.21, 1504

and 1321.52 of the Revised Code are hereby repealed. 1505

Section 3. Section 1323.03 of the Revised Code takes effect 1506
six months after the effective date of this act. During that 1507
six-month period, the Superintendent of Financial Institutions of 1508
the Department of Commerce may take applications for registration 1509
as a mortgage servicer, process the applications, and issue 1510
certificates of registration as the Superintendent is able. During 1511
that time, no mortgage servicer is required to have a certificate 1512
of registration and the Superintendent is not obligated to issue 1513
certificates until the Superintendent is able. 1514

Section 4. Section 109.572 of the Revised Code is presented 1515
in this act as a composite of the section as amended by both Am. 1516
Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly. 1517
The General Assembly, applying the principle stated in division 1518
(B) of section 1.52 of the Revised Code that amendments are to be 1519
harmonized if reasonably capable of simultaneous operation, finds 1520
that the composite is the resulting version of the section in 1521
effect prior to the effective date of the section as presented in 1522
this act. 1523