

**OHIO**

**SENATE**

**JOURNAL**

WEDNESDAY, MAY 24, 2006

ONE HUNDRED EIGHTY-SEVENTH DAY  
Senate Chamber, Columbus, Ohio  
**Wednesday, May 24, 2006, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Gribble, St. Joseph's Cathedral, Columbus, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of the last legislative day was read and approved.

**REPORTS OF REFERENCE AND BILLS FOR SECOND  
CONSIDERATION**

Senator Schuring reports for the Standing Committee on Reference, recommending that the following bills, standing in order for second consideration, be referred to committee as recommended:

**S. B. No. 337**-Senator Kearney.

To enact section 4503.513 of the Revised Code to create "Historically Black Fraternity-Sorority" license plates.

To the Committee on Highways and Transportation.

**S. B. No. 338**-Senators Dann, Hagan, Zurz, Miller, R., Fingerhut, Miller, D., Fedor, Schuring, Wilson.

To amend sections 1345.02, 1345.05, 1345.07, and 1345.09 of the Revised Code to prohibit suppliers who sell oil and gasoline in this state from participating in fixing oil or gasoline prices or manipulating the oil or gasoline market under the Consumer Sales Practices Act and to permit the Attorney General or a consumer to recover additional damages for such a violation.

To the Committee on Judiciary - Civil Justice.

**S. B. No. 339**-Senator Austria.

To amend sections 3701.15, 3701.342, 3709.11, 3709.14, 3709.28, 3709.29, 3709.31, 3709.34, and 5705.01 and to enact sections 319.282, 3701.36, 3709.011, 3709.151, 3709.221, and 3709.311 of the Revised Code with regard to boards of health of city and general health districts.

To the Committee on Health, Human Services and Aging.

YES - 5: J. KIRK SCHURING, KIMBERLY A. ZURZ, C. J. PRENTISS, BILL HARRIS, JEFF JACOBSON.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Said bills were considered a second time and referred to committee as recommended.

### REPORTS OF STANDING AND SELECT COMMITTEES

Senator Armbruster submitted the following report:

The standing committee on Highways and Transportation, to which was referred **Am. Sub. H. B. No. 56**-Representative Raussen, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 5: JOY PADGETT, LYNN R. WACHTMANN, J. KIRK SCHURING, PATRICIA M. CLANCY, JEFFRY J. ARMBRUSTER.

NO - 4: KEVIN J. COUGHLIN, MARC DANN, DALE MILLER, ROBERT F. HAGAN.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Armbruster submitted the following report:

The standing committee on Highways and Transportation, to which was referred **Am. H. B. No. 298**-Representative Peterson, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Miller, D..

YES - 9: MARC DANN, DALE MILLER, JEFFRY J. ARMBRUSTER, J. KIRK SCHURING, PATRICIA M. CLANCY, KEVIN J. COUGHLIN, JOY PADGETT, LYNN R. WACHTMANN, ROBERT F. HAGAN.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Armbruster submitted the following report:

The standing committee on Highways and Transportation, to which was referred **H. B. No. 389**-Representative Setzer, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Dann, Miller, D., Hagan.

YES - 9:     MARC DANN, DALE MILLER, ROBERT F. HAGAN,  
              JEFFRY J. ARMBRUSTER, J. KIRK SCHURING,  
              PATRICIA M. CLANCY, KEVIN J. COUGHLIN, JOY  
              PADGETT, LYNN R. WACHTMANN.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Jordan submitted the following report:

The standing committee on Judiciary - Criminal Justice, to which was referred **S. B. No. 290**-Senator Schuring, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Dann, Kearney.

YES - 8:     JIM JORDAN, PATRICIA M. CLANCY, TIMOTHY J.  
              GRENDALL, MARC DANN, ERIC H. KEARNEY,  
              KIMBERLY A. ZURZ, STEVE STIVERS, J. KIRK  
              SCHURING.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Schuring submitted the following report:

The standing committee on Rules to which were referred the appointments by the Governor of:

**Dean Jagger**, Democrat, from Mt. Gilead, Morrow County, Ohio, as a Member of the Historical Boilers Licensing Board from a term beginning

December 2, 2005 and ending at the close of business October 23, 2010.

**Craig R. Mayton**, Republican, from Hilliard, Franklin County, Ohio, as Chair of the State Employment Relations Board for a term beginning March 17, 2006 and ending at the close of business October 6, 2008, replacing Carol Nolan Drake, who resigned.

**Charlotte M. Pierce**, Republican, from Columbus, Franklin County, Ohio, as a Member of the Technical Advisory Council on Oil and Gas for a new term beginning March 17, 2006 and ending at the close business January 31, 2009.

**Walter A. Urgrinic**, Democrat, from South Euclid, Cuyahoga County, Ohio, as a Member of the Ohio Peace Officer Training Commission for a term beginning May 5, 2006 and ending at the close of business September 19, 2007, replacing LaMont Lockhart, who resigned.

Having had the same under consideration, reports back the recommendation that the Senate advise and consent to said appointments.

YES - 10: BILL HARRIS, JEFF JACOBSON, RANDY GARDNER, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JAY HOTTINGER, J. KIRK SCHURING, TERESA FEDOR, KIMBERLY A. ZURZ, C. J. PRENTISS.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointments by the Governor?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the Senate advised and consented to said appointments.

#### REPORTS OF CONFERENCE COMMITTEES

**Am. Sub. S. B. No. 238**-Senators Niehaus, Schuring, Clancy, Padgett, Carey, Spada, Armbruster, Coughlin, Dann, Fedor, Harris, Kearney, Prentiss,

Roberts, Zurz, Miller, R., Austria, Wilson, Miller, D. Representatives Martin, Allen, Calvert, Cassell, Collier, DeBose, DeGeeter, Distel, Domenick, Driehaus, Evans, C., Fende, Garrison, Hartnett, Harwood, Key, Otterman, Raussen, Seitz, Smith, G., Stewart, D., Strahorn, Williams, Yates, Patton, T..

To amend sections 109.57, 109.572, 109.60, 1347.08, 1717.14, 2101.11, 2151.011, 2151.23, 2151.281, 2151.353, 2151.39, 2151.416, 2151.421, 3107.011, 3107.014, 3107.015, 3107.016, 3107.02, 3107.031, 3107.032, 3107.10, 3107.12, 3107.14, 3107.17, 3107.66, 3109.16, 3109.17, 3313.64, 5101.141, 5101.29, 5101.35, 5101.72, 5101.99, 5103.03, 5103.031, 5103.033, 5103.034, 5103.035, 5103.036, 5103.038, 5103.039, 5103.0311, 5103.0312, 5103.0313, 5103.0315, 5103.07, 5103.13, 5103.131, 5103.16, 5104.01, 5104.11, 5104.31, 5153.01, 5153.111, 5153.122, 5153.16, 5153.17, 5153.20, 5153.60, 5153.61, 5153.62, 5153.63, 5153.64, 5153.65, 5153.66, 5153.67, 5153.70, 5153.71, 5153.72, 5153.73, 5153.74, 5153.75, 5153.76, 5153.77, and 5153.78; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 3107.032 (3107.033), 3107.10 (3107.055), 5153.60 (5103.30), 5153.61 (5103.35), 5153.62 (5103.36), 5153.63 (5103.362), 5153.64 (5103.363), 5153.65 (5103.37), 5153.66 (5103.39), 5153.67 (5103.391), 5153.70 (5103.38), 5153.71 (5103.41), 5153.72 (5103.42), 5153.73 (5103.421), 5153.74 (5103.422), 5153.75 (5153.125), 5153.76 (5153.126), 5153.77 (5153.127), and 5153.78 (5103.32); to enact new sections 3107.032, 3107.10, 5103.20, 5103.21, and 5103.22 and sections 2151.423, 3107.034, 3107.101, 5101.13, 5101.131, 5101.132, 5101.133, 5101.134, 5103.162, 5103.18, 5103.301, 5103.302, 5103.303, 5103.31, 5103.33, 5103.34, 5103.361, 5103.40, 5153.123, 5153.124, and 5153.166; and to repeal sections 5103.037, 5103.20, 5103.21, 5103.22, 5103.23, 5103.24, 5103.25, 5103.26, 5103.27, 5103.28, 5153.68, and 5153.69 of the Revised Code to revise the law governing child welfare and other laws regarding the Department of Job and Family Services.

The question being, "Shall the report of the Committee of Conference be agreed to?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the report of Committee of Conference was agreed to.

### RESOLUTIONS REPORTED BY COMMITTEE

**H. C. R. No. 30**-Representatives Peterson, Wolpert, Chandler, Yuko, Fende, Mitchell, McGregor, J., Collier, Daniels, Uecker, Bubp, Allen, Barrett, Beatty, Blessing, Bocchieri, Book, Brown, Buehrer, Calvert, Carano, Cassell, Coley, Combs, DeBose, DeGeeter, DeWine, Distel, Dolan, Domenick, Driehaus, Evans, C., Evans, D., Faber, Fessler, Flowers, Garrison, Hagan, Hartnett, Healy, Hoops, Hughes, Key, Kilbane, Latta, Law, Martin, Mason, McGregor, R., Otterman, Patton, T., Perry, Raussen, Redfern, Reed, Reidelbach, Sayre, Schaffer, Schlichter, Schneider, Seaver, Seitz, Setzer, Skindell, Stewart, D., Stewart, J., Strahorn, Sykes, Taylor, Ujvagi, Wagoner, Webster, Widowfield, Willamowski, Williams, Yates Senators Cates, Grendell, Armbruster, Niehaus, Schuring, Miller, D., Fedor, Kearney.

To designate the village of Sunbury, Ohio, as the home of the Ohio Fallen Heroes Memorial.

WHEREAS, Ohioans have fought and died in Operation Iraqi Freedom and Operation Enduring Freedom; and

WHEREAS, The Ohio Fallen Heroes Memorial, Inc., a nonprofit corporation, is dedicated to raising money to construct and maintain an Ohio memorial for this state's fallen heroes in those Operations and the War on Terror; and

WHEREAS, The village of Sunbury, Ohio, has dedicated land upon which the memorial will be constructed to honor members of the United States Armed Forces from Ohio who have died in those Operations and the War on Terror; and

WHEREAS, The Ohio Fallen Heroes Memorial will contain a permanent stone marker for each Ohio servicemember who has paid the ultimate price for our liberty and freedom; now therefore be it

RESOLVED, That we, the members of the 126th General Assembly of the State of Ohio, in adopting this resolution, designate the village of Sunbury, Ohio, as the home of the Ohio Fallen Heroes Memorial; and be it further

RESOLVED, That the Clerk of the House of Representatives transmit duly authenticated copies of this resolution to the news media of Ohio and the village of Sunbury, Ohio.

The question being, "Shall the concurrent resolution, **H. C. R. No. 30**, be adopted?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the concurrent resolution was adopted.

The question being, "Shall the title be agreed to?"

Senator Grendell moved to amend the title as follows:

Add the names: "Carey, Clancy, Coughlin, Dann, Fingerhut, Gardner, Harris, Jacobson, Jordan, Schuler, Spada, Stivers, Padgett, Mumper, Austria, Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**S. C. R. No. 30**-Senators Schuring, Dann, Hottinger, Coughlin, Fingerhut, Hagan, Mumper, Miller, R., Armbruster, Padgett, Zurz, Stivers, Fedor, Miller, D., Gardner, Spada, Kearney, Roberts, Grendell, Jacobson, Clancy.

Requesting the support of the Ohio Congressional delegation for federal funding for a Tier 1 Environmental Impact Statement for the Ohio Hub Plan, increasing passenger and freight rail capacity in Ohio.

WHEREAS, The Ohio Rail Development Commission and the Ohio Department of Transportation have completed a preliminary analysis of the feasibility of high-speed passenger rail and increased freight rail capacity in Ohio, known as the Ohio Hub Plan; and

WHEREAS, The Plan concludes that the Ohio Hub System would strengthen Ohio's position as a strategic distribution and logistics center and position Ohio as an integral part of a national passenger rail system; and

WHEREAS, High-speed passenger rail service and improved freight rail capacity, essential features of the Ohio Hub Plan, will create thousands of jobs and increase Ohio's economic competitiveness through improved transportation; and

WHEREAS, The Ohio Hub Plan will provide new transportation options for moving people and increasing volumes of freight by improving the region's overall rail system; and



WHEREAS, This Plan concludes that high-speed passenger rail is not only feasible, but will attract over three million riders annually; and

WHEREAS, A Tier 1 Environmental Impact Study, required under the National Environmental Policy Act, must be developed and completed to determine the route alignments, station locations, environmental impacts, community preferences, and costs of building the Ohio Hub System; and

WHEREAS, Completion of the Tier 1 Environmental Impact Statement will establish the Ohio Hub System as an official federal transportation project; now therefore be it

RESOLVED, That we, the members of the 126th General Assembly of the State of Ohio, do hereby request the Ohio Congressional delegation to support the Ohio Rail Development Commission's two-year federal funding request of 5.8 million dollars to complete a Tier 1 Environmental Impact Statement on all feasible passenger rail corridors in Ohio; and be it further

RESOLVED, That we, the members of the 126th General Assembly of the State of Ohio, call upon Ohio's Congressional delegation to secure the long-term funding necessary for full federal participation in this important endeavor; and be it further

RESOLVED, That the Clerk of the Senate transmit duly authenticated copies of this resolution to the Governor of Ohio, each member of the Ohio Congressional delegation, the Ohio Rail Development Commission, and the news media of Ohio.

The question being, "Shall the concurrent resolution, **S. C. R. No. 30**, be adopted?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the concurrent resolution was adopted.

The question being, "Shall the title be agreed to?"

The title was agreed to.

On the motion of Senator Jacobson the Senate recessed.

The Senate met pursuant to the recess.

### BILLS FOR THIRD CONSIDERATION

**Sub. H. B. No. 576**-Representatives McGregor, R., Buehrer, Reinhard, Carmichael, Allen, Aslanides, Barrett, Beatty, Blasdel, Blessing, Boccieri, Book, Brown, Bubp, Carano, Cassell, Chandler, Coley, Collier, Combs, Core, DeBose, DeGeeter, DeWine, Distel, Dolan, Domenick, Driehaus, Evans, C., Evans, D., Faber, Fende, Fessler, Flowers, Garrison, Gibbs, Gilb, Hagan, Hartnett, Harwood, Healy, Hood, Hoops, Hughes, Key, Kilbane, Koziura, Latta, Law, Mason, McGregor, J., Mitchell, Oelslager, Otterman, Patton, S., Patton, T., Perry, Peterson, Raussen, Redfern, Reed, Reidelbach, Sayre, Schaffer, Schlichter, Schneider, Seitz, Setzer, Skindell, Smith, G., Smith, S., Stewart, D., Stewart, J., Strahorn, Sykes, Taylor, Uecker, Wagner, Wagoner, Webster, White, Widener, Widowfield, Willamowski, Williams, Wolpert, Yates, Yuko, Ujvagi Senators Cates, Grendell, Armbruster, Mumper, Niehaus, Schuring, Miller, D., Fedor, Kearney.

To amend section 3333.26 of the Revised Code to provide college tuition waivers to spouses and qualifying former spouses of members of the United States armed forces killed in the line of duty in a combat zone after May 7, 1975, if the spouse or qualified former spouse was a resident at that time, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 576**, pass?"

Senator Fedor moved to amend as follows:

After line 120, insert:

**"Section 3.** Any spouse or qualified former spouse who, because their spouse or former spouse who was a member of the armed services of the United States was killed in the line of duty while serving in a combat zone after May 7, 1975, is eligible for a mandatory tuition and student fees waiver under division (B)(4) of section 3333.26 of the Revised Code, as amended by this act, and any spouse or qualified former spouse who, because their spouse or former spouse who was a member of the armed services of the United States was killed in the line of duty while serving in a combat zone after May 7, 1975, is eligible for a reduction of tuition and student fees under division (C) of that section shall receive that waiver or reduction notwithstanding the fact, if applicable, that their spouse or former spouse was wearing privately purchased body armor at the time they were killed in the line of duty."

The question being, "Shall the amendment be agreed to?"

Senator Cates moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller D	Miller R	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 576**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Grendell moved to amend the title as follows:

Add the names: "Amstutz, Carey, Clancy, Dann, Fingerhut, Gardner, Harris, Hottinger, Miller, R., Prentiss, Roberts, Schuler, Spada, Stivers, Zurz, Austria, Hagan, Jordan, Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. H. B. No. 115**-Representatives Setzer, Reinhard, Webster, Carano, C. Evans, Chandler, Calvert, Combs, DeBose, Domenick, Fende, Flowers, Gibbs, Key, Law, Martin, McGregor, J., Otterman, Patton, T., Schlichter, Schneider, Seitz, Smith, S., Stewart, D., Strahorn, Williams, Yuko Senators Cates, Padgett, Gardner, Mumper.

To amend sections 3301.075, 3310.08, 3313.843, 3314.014, 3319.01, and 3319.17 and to enact sections 3301.0713, 3312.01 to 3312.13, and 3313.845 of the Revised Code to establish the Educational Regional Service System and the EMIS Advisory Board, to revise the financing of Educational Choice Scholarships for kindergartners, to permit the governing authority of a start-up community school that meets certain conditions to establish another community school above the cap on the number of community schools, to permit school districts to establish residency requirements for superintendents, and to make an appropriation, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 115**, pass?"

Senator Fedor moved to amend as follows:

In line 328, delete "One" and insert "Two"; delete "teacher" and insert "teachers"

Delete line 386

In line 387, delete everything before the second "the"

In line 389, delete the underlined semicolon and insert "and two special education teachers employed by school districts in the region, one of whom shall be appointed by the Ohio education association and one of whom shall be appointed by the Ohio federation of teachers. If the Ohio federation of teachers does not have a local chapter in the region, the Ohio education association shall appoint the second special education teacher."

In line 391, after "teacher" insert "employed by a school district in the region."

In line 392, after "teachers" insert an underlined comma

In line 529, delete "One" and insert "Two"; delete "teacher" and insert "teachers"; after the underlined comma insert "one"; delete "jointly"

In line 530, after "and" insert "one appointed by"

The question being, "Shall the amendment be agreed to?"

Senator Gardner moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller D	Miller R	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 115**, pass?"

Senator Fedor moved to amend as follows:

Between lines 1004 and 1005, insert:

" **Section 8** . That Section 206.87 of Am. Sub. H.B. 66 of the 126th General Assembly be amended to read as follows:

**Sec. 206.87 . LSC LEGISLATIVE SERVICE COMMISSION**

General Revenue Fund

GRF	035-321	Operating Expenses	\$ 15,398,213	\$ <del>16,026,427</del> <u>14,870,000</u>
GRF	035-402	Legislative Interns	\$ 1,012,000	\$ 1,012,000
GRF	035-404	Legislative Office of Education Oversight	\$ 628,214	\$ 0
				<u>1,156,427</u>
GRF	035-405	Correctional Institution Inspection Committee	\$ 375,000	\$ 390,000
GRF	035-409	National Associations	\$ 445,000	\$ 456,000
GRF	035-410	Legislative Information Systems	\$ 3,625,000	\$ 3,625,000
TOTAL GRF	General Revenue Fund		\$ 21,483,427	\$ 21,509,427

General Services Fund Group

4F6	035-603	Legislative Budget	\$ 152,000	\$ 152,500
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	Services			
410	035-601	Sale of Publications	\$ 25,000	\$ 25,000
TOTAL GSF General Services				
	Fund Group		\$ 177,000	\$ 177,500
TOTAL ALL BUDGET FUND			\$ 21,660,427	\$ 21,686,927
GROUPS				

JOINT LEGISLATIVE COMMITTEE ON MEDICAID  
TECHNOLOGY AND REFORM

Of the foregoing appropriation item 035-321, Operating Expenses, \$100,000 in each fiscal year shall be used for costs associated with employing an executive director for the Joint Legislative Committee on Medicaid Technology and Reform as authorized by division (C) of section 101.391 of the Revised Code.

~~ELIMINATION OF LEGISLATIVE OFFICE OF EDUCATION  
OVERSIGHT~~

~~The Legislative Office of Education Oversight shall complete statutorily required studies by December 31, 2005. On January 1, 2006, the Director of Budget and Management shall transfer the unencumbered cash balance from GRF appropriation item 035-404, Legislative Office of Education Oversight, to GRF appropriation item 035-321, Operating Expenses.~~

~~It is the intent of the General Assembly to reconstitute the Legislative Budget Office within the Legislative Service Commission to focus on revenue forecasting. The Legislative Service Commission shall employ a Legislative Budget Officer. The Legislative Service Commission shall also employ a person to focus on Medicaid, TANF, and other federally funded, caseload-driven programs. It is the intent of the General Assembly to retain current fiscal staff within the Legislative Service Commission.~~

**Section 9 .** That existing Section 206.87 of Am. Sub. H.B. 66 of the 126th General Assembly is hereby repealed."

In line 1005, delete " 8. " and insert " 10. "; delete "and"; after "8" insert ", 9, and 10"

In line 4 of the title, after "Code" insert "and to amend Section 206.87 of Am. Sub. H.B. 66 of the 126th General Assembly"

In line 13 of the title, after the comma insert "to reinstate the Legislative Office of Education Oversight,"

The question being, "Shall the amendment be agreed to?"

Senator Jacobson moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Spada	Stivers	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller D	Miller R	Prentiss
Roberts	Schuring	Wilson	Zurz-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 115**, pass?"

The yeas and nays were taken and resulted - yeas 29, nays 4, as follows:

Those who voted in the affirmative were: Senators

Armbruster	Austria	Carey	Cates
Clancy	Coughlin	Fedor	Fingerhut
Gardner	Goodman	Hagan	Hottinger
Jacobson	Jordan	Kearney	Miller D
Miller R	Mumper	Niehaus	Padgett
Prentiss	Roberts	Schuler	Schuring
Spada	Stivers	Wilson	Zurz
			Harris-29.

Senators Amstutz, Dann, Grendell, and Wachtmann voted in the negative-4.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Gardner moved to amend the title as follows:

Add the names: "Niehaus, Harris."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. H. B. No. 137**-Representatives Gilb, Willamowski, Latta, Wagoner, McGregor, J., Fessler, Aslanides, Book, Combs, DeGeeter, Domenick, Evans, C., Gibbs, Key, Patton, T., Reidelbach, Seitz.

To amend sections 2151.313, 2152.72, 2930.13, 3301.0714, 3313.64, 3313.662, 3314.03, 3323.01, and 4301.69; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 2151.357 (2151.362); to enact new sections 2151.357 and 2151.358 and sections 2151.355 and 2151.356; and to repeal section 2151.358 of the Revised Code to revise the procedure by which a juvenile court may seal records of alleged

and adjudicated delinquent and unruly children and adjudicated juvenile traffic offenders, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 137**, pass?"

Senator Grendell moved to amend as follows:

In line 12, after "2152.72," insert "2929.14, 2929.19,"; after "2930.13," insert "2967.28,"

In line 17, delete "and" and insert a comma

In line 18, after "2151.356" insert ", and 2919.191"

Between lines 964 and 965, insert:

**"Sec. 2929.14.** (A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), or (G) of this section and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:

(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, or ten years.

(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years.

(3) For a felony of the third degree, the prison term shall be one, two, three, four, or five years.

(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months.

(5) For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months.

(B) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(5), (D)(6), or (G) of this section, in section 2907.02 of the Revised Code, or in Chapter 2925. of the Revised Code, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender, the court shall impose the shortest prison term authorized for the offense pursuant to division (A) of this section, unless one or more of the following applies:

(1) The offender was serving a prison term at the time of the offense, or the offender previously had served a prison term.

(2) The court finds on the record that the shortest prison term will



demean the seriousness of the offender's conduct or will not adequately protect the public from future crime by the offender or others.

(C) Except as provided in division (G) of this section or in Chapter 2925. of the Revised Code, the court imposing a sentence upon an offender for a felony may impose the longest prison term authorized for the offense pursuant to division (A) of this section only upon offenders who committed the worst forms of the offense, upon offenders who pose the greatest likelihood of committing future crimes, upon certain major drug offenders under division (D)(3) of this section, and upon certain repeat violent offenders in accordance with division (D)(2) of this section.

(D)(1)(a) Except as provided in division (D)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141, 2941.144, or 2941.145 of the Revised Code, the court shall impose on the offender one of the following prison terms:

(i) A prison term of six years if the specification is of the type described in section 2941.144 of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or silencer on or about the offender's person or under the offender's control while committing the felony;

(ii) A prison term of three years if the specification is of the type described in section 2941.145 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and displaying the firearm, brandishing the firearm, indicating that the offender possessed the firearm, or using it to facilitate the offense;

(iii) A prison term of one year if the specification is of the type described in section 2941.141 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the felony.

(b) If a court imposes a prison term on an offender under division (D)(1)(a) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(1)(a) of this section for felonies committed as part of the same act or transaction.

(c) Except as provided in division (D)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2923.161 of the Revised Code or to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another, also is convicted of or pleads guilty to a specification of the type described in section 2941.146 of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle other than

a manufactured home, the court, after imposing a prison term on the offender for the violation of section 2923.161 of the Revised Code or for the other felony offense under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term of five years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one additional prison term on an offender under division (D)(1)(c) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (D)(1)(c) of this section relative to an offense, the court also shall impose a prison term under division (D)(1)(a) of this section relative to the same offense, provided the criteria specified in that division for imposing an additional prison term are satisfied relative to the offender and the offense.

(d) If an offender who is convicted of or pleads guilty to an offense of violence that is a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.1411 of the Revised Code that charges the offender with wearing or carrying body armor while committing the felony offense of violence, the court shall impose on the offender a prison term of two years. The prison term so imposed shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(1)(d) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term under division (D)(1)(a) or (c) of this section, the court is not precluded from imposing an additional prison term under division (D)(1)(d) of this section.

(e) The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division (D)(1)(c) of this section upon an offender for a violation of section 2923.12 or 2923.123 of the Revised Code. The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division (D)(1)(c) of this section upon an offender for a violation of section 2923.13 of the Revised Code unless all of the following apply:

(i) The offender previously has been convicted of aggravated murder, murder, or any felony of the first or second degree.

(ii) Less than five years have passed since the offender was released from prison or post-release control, whichever is later, for the prior offense.

(f) If an offender is convicted of or pleads guilty to a felony that includes, as an essential element, causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in section 2941.1412 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer as defined in section 2935.01 of the Revised Code or a corrections officer as defined in section 2941.1412 of the Revised Code, the court, after imposing a

prison term on the offender for the felony offense under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term of seven years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one additional prison term on an offender under division (D)(1)(f) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (D)(1)(f) of this section relative to an offense, the court shall not impose a prison term under division (D)(1)(a) or (c) of this section relative to the same offense.

(2)(a) If an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender, the court shall impose a prison term from the range of terms authorized for the offense under division (A) of this section that may be the longest term in the range and that shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. If the court finds that the repeat violent offender, in committing the offense, caused any physical harm that carried a substantial risk of death to a person or that involved substantial permanent incapacity or substantial permanent disfigurement of a person, the court shall impose the longest prison term from the range of terms authorized for the offense under division (A) of this section.

(b) If the court imposing a prison term on a repeat violent offender imposes the longest prison term from the range of terms authorized for the offense under division (A) of this section, the court may impose on the offender an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if the court finds that both of the following apply with respect to the prison terms imposed on the offender pursuant to division (D)(2)(a) of this section and, if applicable, divisions (D)(1) and (3) of this section:

(i) The terms so imposed are inadequate to punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a greater likelihood of recidivism outweigh the applicable factors under that section indicating a lesser likelihood of recidivism.

(ii) The terms so imposed are demeaning to the seriousness of the offense, because one or more of the factors under section 2929.12 of the Revised Code indicating that the offender's conduct is more serious than conduct normally constituting the offense are present, and they outweigh the applicable factors under that section indicating that the offender's conduct is less serious than conduct normally constituting the offense.

(3)(a) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of section 2903.02 of the Revised Code, if

the offender commits a violation of section 2925.03 or 2925.11 of the Revised Code and that section classifies the offender as a major drug offender and requires the imposition of a ten-year prison term on the offender, if the offender commits a felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, division (C) or (D) of section 3719.172, division (C) of section 4729.51, or division (J) of section 4729.54 of the Revised Code that includes the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and the court imposing sentence upon the offender finds that the offender is guilty of a specification of the type described in section 2941.1410 of the Revised Code charging that the offender is a major drug offender, if the court imposing sentence upon an offender for a felony finds that the offender is guilty of corrupt activity with the most serious offense in the pattern of corrupt activity being a felony of the first degree, or if the offender is guilty of an attempted violation of section 2907.02 of the Revised Code and, had the offender completed the violation of section 2907.02 of the Revised Code that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the offender for the felony violation a ten-year prison term that cannot be reduced pursuant to section 2929.20 or Chapter 2967. or 5120. of the Revised Code.

(b) The court imposing a prison term on an offender under division (D)(3)(a) of this section may impose an additional prison term of one, two, three, four, five, six, seven, eight, nine, or ten years, if the court, with respect to the term imposed under division (D)(3)(a) of this section and, if applicable, divisions (D)(1) and (2) of this section, makes both of the findings set forth in divisions (D)(2)(b)(i) and (ii) of this section.

(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A)(4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (D)(4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term in the range of six months to thirty months for a fourth degree felony OVI offense and shall equal one of the authorized prison terms specified in division (A)(3) of this section for a third degree felony OVI offense. If the court imposes an additional prison term under division (D)(4) of this

section, the offender shall serve the additional prison term after the offender has served the mandatory prison term required for the offense. In addition to the mandatory prison term or mandatory and additional prison term imposed as described in division (D)(4) of this section, the court also may sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code and the court imposes a mandatory term of local incarceration, the court may impose a prison term as described in division (A)(1) of that section.

(5) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1414 of the Revised Code that charges that the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, the court shall impose on the offender a prison term of five years. If a court imposes a prison term on an offender under division (D)(5) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(5) of this section for felonies committed as part of the same act.

(6) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1415 of the Revised Code that charges that the offender previously has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (D)(6) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(6) of this section for felonies committed as part of the same act.

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division

consecutively to any other mandatory prison term imposed under either division or under division (D)(1)(d) of this section, consecutively to and prior to any prison term imposed for the underlying felony pursuant to division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(b) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(d) of this section for wearing or carrying body armor while committing an offense of violence that is a felony, the offender shall serve the mandatory term so imposed consecutively to any other mandatory prison term imposed under that division or under division (D)(1)(a) or (c) of this section, consecutively to and prior to any prison term imposed for the underlying felony under division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(c) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(f) of this section, the offender shall serve the mandatory prison term so imposed consecutively to and prior to any prison term imposed for the underlying felony under division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(2) If an offender who is an inmate in a jail, prison, or other residential detention facility violates section 2917.02, 2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender who is under detention at a detention facility commits a felony violation of section 2923.131 of the Revised Code, or if an offender who is an inmate in a jail, prison, or other residential detention facility or is under detention at a detention facility commits another felony while the offender is an escapee in violation of section 2921.34 of the Revised Code, any prison term imposed upon the offender for one of those violations shall be served by the offender consecutively to the prison term or term of imprisonment the offender was serving when the offender committed that offense and to any other prison term previously or subsequently imposed upon the offender.

(3) If a prison term is imposed for a violation of division (B) of section 2911.01 of the Revised Code, a violation of division (A) of section 2913.02 of the Revised Code in which the stolen property is a firearm or dangerous ordnance, or a felony violation of division (B) of section 2921.331 of the Revised Code, the offender shall serve that prison term consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(4) If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court may require the offender to serve the prison terms consecutively if the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the

offender's conduct and to the danger the offender poses to the public, and if the court also finds any of the following:

(a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release control for a prior offense.

(b) At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

(5) If a mandatory prison term is imposed upon an offender pursuant to division (D)(5) or (6) of this section, the offender shall serve the mandatory prison term consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section. If a mandatory prison term is imposed upon an offender pursuant to division (D)(5) of this section, and if a mandatory prison term also is imposed upon the offender pursuant to division (D)(6) of this section in relation to the same violation, the offender shall serve the mandatory prison term imposed pursuant to division (D)(5) of this section consecutively to and prior to the mandatory prison term imposed pursuant to division (D)(6) of this section and consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section.

(6) When consecutive prison terms are imposed pursuant to division (E)(1), (2), (3), (4), or (5) of this section, the term to be served is the aggregate of all of the terms so imposed.

(F)(1) ~~If a court imposes a prison term of a type described in division (B) of section 2967.28 of the Revised Code for a felony of the first degree, for a felony of the second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division. If a court imposes a sentence including a prison term of a type described in this division on or after the effective date of this amendment, the failure of a court to include a post-release control requirement in the sentence pursuant to this division does not negate, limit, or otherwise affect the mandatory period of post-release control that is required for the offender under division (B) of section 2967.28 of the Revised Code. Section 2929.191 of~~

the Revised Code applies if, prior to the effective date of this amendment, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

(2) If a court imposes a prison term of a type described in division (C) of that section for a felony of the third, fourth, or fifth degree that is not subject to division (F)(1) of this section, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division, if the parole board determines that a period of post-release control is necessary. Section 2929.191 of the Revised Code applies if, prior to the effective date of this amendment, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

(G) If a person is convicted of or pleads guilty to a violent sex offense or a designated homicide, assault, or kidnapping offense and, in relation to that offense, the offender is adjudicated a sexually violent predator, the court shall impose sentence upon the offender in accordance with section 2971.03 of the Revised Code, and Chapter 2971. of the Revised Code applies regarding the prison term or term of life imprisonment without parole imposed upon the offender and the service of that term of imprisonment.

(H) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

(I) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.142 of the Revised Code that charges the offender with having committed the felony while participating in a criminal gang, the court shall impose upon the offender an additional prison term of one, two, or three years.

(J) If an offender who is convicted of or pleads guilty to aggravated murder, murder, or a felony of the first, second, or third degree that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.143 of the Revised Code that charges the offender with having committed the offense in a school safety zone or towards a person in a school safety zone, the court shall impose upon the offender an additional prison term of two years. The offender shall serve the additional two years consecutively to and prior to the prison term imposed for the underlying offense.

(K) At the time of sentencing, the court may recommend the offender for placement in a program of shock incarceration under section 5120.031 of the Revised Code or for placement in an intensive program prison under section



5120.032 of the Revised Code, disapprove placement of the offender in a program of shock incarceration or an intensive program prison of that nature, or make no recommendation on placement of the offender. In no case shall the department of rehabilitation and correction place the offender in a program or prison of that nature unless the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for the placement.

If the court disapproves placement of the offender in a program or prison of that nature, the department of rehabilitation and correction shall not place the offender in any program of shock incarceration or intensive program prison.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison, and if the offender is subsequently placed in the recommended program or prison, the department shall notify the court of the placement and shall include with the notice a brief description of the placement.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison and the department does not subsequently place the offender in the recommended program or prison, the department shall send a notice to the court indicating why the offender was not placed in the recommended program or prison.

If the court does not make a recommendation under this division with respect to an offender and if the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature, the department shall screen the offender and determine if there is an available program of shock incarceration or an intensive program prison for which the offender is suited. If there is an available program of shock incarceration or an intensive program prison for which the offender is suited, the department shall notify the court of the proposed placement of the offender as specified in section 5120.031 or 5120.032 of the Revised Code and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

**Sec. 2929.19.** (A)(1) The court shall hold a sentencing hearing before imposing a sentence under this chapter upon an offender who was convicted of or pleaded guilty to a felony and before resentencing an offender who was convicted of or pleaded guilty to a felony and whose case was remanded pursuant to section 2953.07 or 2953.08 of the Revised Code. At the hearing, the offender, the prosecuting attorney, the victim or the victim's representative in accordance with section 2930.14 of the Revised Code, and, with the approval of the court, any other person may present information relevant to the imposition of sentence in the case. The court shall inform the offender of the verdict of the jury or finding of the court and ask the offender whether the offender has anything to say as to why sentence should not be imposed upon the offender.

(2) Except as otherwise provided in this division, before imposing sentence on an offender who is being sentenced on or after January 1, 1997, for a sexually oriented offense that is not a registration-exempt sexually oriented offense and who is in any category of offender described in division (B)(1)(a)(i), (ii), or (iii) of section 2950.09 of the Revised Code, the court shall conduct a hearing in accordance with division (B) of section 2950.09 of the Revised Code to determine whether the offender is a sexual predator. The court shall not conduct a hearing under that division if the offender is being sentenced for a violent sex offense or a designated homicide, assault, or kidnapping offense and, in relation to that offense, the offender was adjudicated a sexually violent predator. Before imposing sentence on an offender who is being sentenced for a sexually oriented offense that is not a registration-exempt sexually oriented offense, the court also shall comply with division (E) of section 2950.09 of the Revised Code.

Before imposing sentence on or after July 31, 2003, on an offender who is being sentenced for a child-victim oriented offense, regardless of when the offense was committed, the court shall conduct a hearing in accordance with division (B) of section 2950.091 of the Revised Code to determine whether the offender is a child-victim predator. Before imposing sentence on an offender who is being sentenced for a child-victim oriented offense, the court also shall comply with division (E) of section 2950.091 of the Revised Code.

(B)(1) At the sentencing hearing, the court, before imposing sentence, shall consider the record, any information presented at the hearing by any person pursuant to division (A) of this section, and, if one was prepared, the presentence investigation report made pursuant to section 2951.03 of the Revised Code or Criminal Rule 32.2, and any victim impact statement made pursuant to section 2947.051 of the Revised Code.

(2) The court shall impose a sentence and shall make a finding that gives its reasons for selecting the sentence imposed in any of the following circumstances:

(a) Unless the offense is a violent sex offense or designated homicide, assault, or kidnapping offense for which the court is required to impose sentence pursuant to division (G) of section 2929.14 of the Revised Code, if it imposes a prison term for a felony of the fourth or fifth degree or for a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to division (B) of section 2929.13 of the Revised Code for purposes of sentencing, its reasons for imposing the prison term, based upon the overriding purposes and principles of felony sentencing set forth in section 2929.11 of the Revised Code, and any factors listed in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised Code that it found to apply relative to the offender.

(b) If it does not impose a prison term for a felony of the first or second degree or for a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and for which a presumption in favor of a prison term

is specified as being applicable, its reasons for not imposing the prison term and for overriding the presumption, based upon the overriding purposes and principles of felony sentencing set forth in section 2929.11 of the Revised Code, and the basis of the findings it made under divisions (D)(1) and (2) of section 2929.13 of the Revised Code.

(c) If it imposes consecutive sentences under section 2929.14 of the Revised Code, its reasons for imposing the consecutive sentences;

(d) If the sentence is for one offense and it imposes a prison term for the offense that is the maximum prison term allowed for that offense by division (A) of section 2929.14 of the Revised Code, its reasons for imposing the maximum prison term;

(e) If the sentence is for two or more offenses arising out of a single incident and it imposes a prison term for those offenses that is the maximum prison term allowed for the offense of the highest degree by division (A) of section 2929.14 of the Revised Code, its reasons for imposing the maximum prison term.

(3) Subject to division (B)(4) of this section, if the sentencing court determines at the sentencing hearing that a prison term is necessary or required, the court shall do all of the following:

(a) Impose a stated prison term;

(b) Notify the offender that, as part of the sentence, the parole board may extend the stated prison term for certain violations of prison rules for up to one-half of the stated prison term;

(c) Notify the offender that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the first degree or second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person; If a court imposes a sentence including a prison term of a type described in division (B)(3)(c) of this section on or after the effective date of this amendment, the failure of a court to notify the offender pursuant to division (B)(3)(c) of this section that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison or to include in the judgment of conviction entered on the journal a statement to that effect does not negate, limit, or otherwise affect the mandatory period of supervision that is required for the offender under division (B) of section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to the effective date of this amendment, a court imposed a sentence including a prison term of a type described in division (B)(3)(c) of this section and failed to notify the offender pursuant to division (B)(3)(c) of this section regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence a statement regarding post-release control.

(d) Notify the offender that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the third, fourth, or fifth degree that is not subject to division (B)(3)(c) of this section; Section 2929.191 of the Revised Code applies if, prior to the effective date of this amendment, a court imposed a sentence including a prison term of a type described in division (B)(3)(d) of this section and failed to notify the offender pursuant to division (B)(3)(d) of this section regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence a statement regarding post-release control.

(e) Notify the offender that, if a period of supervision is imposed following the offender's release from prison, as described in division (B)(3)(c) or (d) of this section, and if the offender violates that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code, the parole board may impose a prison term, as part of the sentence, of up to one-half of the stated prison term originally imposed upon the offender; If a court imposes a sentence including a prison term on or after the effective date of this amendment, the failure of a court to notify the offender pursuant to division (B)(3)(e) of this section that the parole board may impose a prison term as described in division (B)(3)(e) of this section for a violation of that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code or to include in the judgment of conviction entered on the journal a statement to that effect does not negate, limit, or otherwise affect the authority of the parole board to so impose a prison term for a violation of that nature if, pursuant to division (D)(1) of section 2967.28 of the Revised Code, the parole board notifies the offender prior to the offender's release of the board's authority to so impose a prison term. Section 2929.191 of the Revised Code applies if, prior to the effective date of this amendment, a court imposed a sentence including a prison term and failed to notify the offender pursuant to division (B)(3)(e) of this section regarding the possibility of the parole board imposing a prison term for a violation of supervision or a condition of post-release control.

(f) Require that the offender not ingest or be injected with a drug of abuse and submit to random drug testing as provided in section 341.26, 753.33, or 5120.63 of the Revised Code, whichever is applicable to the offender who is serving a prison term, and require that the results of the drug test administered under any of those sections indicate that the offender did not ingest or was not injected with a drug of abuse.

(4) If the offender is being sentenced for a violent sex offense or designated homicide, assault, or kidnapping offense that the offender committed on or after January 1, 1997, and the offender is adjudicated a sexually violent predator in relation to that offense, if the offender is being sentenced for a sexually oriented offense that is not a registration-exempt sexually oriented offense and that the offender committed on or after January 1, 1997, and the court imposing the sentence has determined pursuant to division (B) of section

2950.09 of the Revised Code that the offender is a sexual predator, if the offender is being sentenced on or after July 31, 2003, for a child-victim oriented offense and the court imposing the sentence has determined pursuant to division (B) of section 2950.091 of the Revised Code that the offender is a child-victim predator, or if the offender is being sentenced for an aggravated sexually oriented offense as defined in section 2950.01 of the Revised Code, the court shall include in the offender's sentence a statement that the offender has been adjudicated a sexual predator, has been adjudicated a child victim predator, or has been convicted of or pleaded guilty to an aggravated sexually oriented offense, whichever is applicable, and shall comply with the requirements of section 2950.03 of the Revised Code. Additionally, in the circumstances described in division (G) of section 2929.14 of the Revised Code, the court shall impose sentence on the offender as described in that division.

(5) If the sentencing court determines at the sentencing hearing that a community control sanction should be imposed and the court is not prohibited from imposing a community control sanction, the court shall impose a community control sanction. The court shall notify the offender that, if the conditions of the sanction are violated, if the offender commits a violation of any law, or if the offender leaves this state without the permission of the court or the offender's probation officer, the court may impose a longer time under the same sanction, may impose a more restrictive sanction, or may impose a prison term on the offender and shall indicate the specific prison term that may be imposed as a sanction for the violation, as selected by the court from the range of prison terms for the offense pursuant to section 2929.14 of the Revised Code.

(6) Before imposing a financial sanction under section 2929.18 of the Revised Code or a fine under section 2929.32 of the Revised Code, the court shall consider the offender's present and future ability to pay the amount of the sanction or fine.

(7) If the sentencing court sentences the offender to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a local detention facility, as defined in section 2929.36 of the Revised Code, and if the local detention facility is covered by a policy adopted pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, both of the following apply:

(a) The court shall specify both of the following as part of the sentence:

(i) If the offender is presented with an itemized bill pursuant to section 2929.37 of the Revised Code for payment of the costs of confinement, the offender is required to pay the bill in accordance with that section.

(ii) If the offender does not dispute the bill described in division (B)(7)(a)(i) of this section and does not pay the bill by the times specified in section 2929.37 of the Revised Code, the clerk of the court may issue a certificate of judgment against the offender as described in that section.

(b) The sentence automatically includes any certificate of judgment issued as described in division (B)(7)(a)(ii) of this section.

(C)(1) If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code, the court shall impose the mandatory term of local incarceration in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose additional sanctions as specified in sections 2929.15, 2929.16, 2929.17, and 2929.18 of the Revised Code. The court shall not impose a prison term on the offender except that the court may impose a prison term upon the offender as provided in division (A)(1) of section 2929.13 of the Revised Code.

(2) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the court shall impose the mandatory prison term in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose an additional prison term as specified in section 2929.14 of the Revised Code. In addition to the mandatory prison term or mandatory prison term and additional prison term the court imposes, the court also may impose a community control sanction on the offender, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(D) The sentencing court, pursuant to division (K) of section 2929.14 of the Revised Code, may recommend placement of the offender in a program of shock incarceration under section 5120.031 of the Revised Code or an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program or prison of that nature, or make no recommendation. If the court recommends or disapproves placement, it shall make a finding that gives its reasons for its recommendation or disapproval.

**Sec. 2929.191.** (A)(1) If, prior to the effective date of this section, a court imposed a sentence including a prison term of a type described in division (B)(3)(c) of section 2929.19 of the Revised Code and failed to notify the offender pursuant to that division that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison or to include a statement to that effect in the judgment of conviction entered on the journal or in the sentence pursuant to division (F)(1) of section 2929.14 of the Revised Code, at any time before the offender is released from imprisonment under that term and at a hearing conducted in accordance with division (C) of this section, the court may prepare and issue a correction to the judgment of conviction that includes in the judgment of conviction the statement that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison.

If, prior to the effective date of this section, a court imposed a sentence including a prison term of a type described in division (B)(3)(d) of section 2929.19 of the Revised Code and failed to notify the offender pursuant to that

division that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison or to include a statement to that effect in the judgment of conviction entered on the journal or in the sentence pursuant to division (F)(2) of section 2929.14 of the Revised Code, at any time before the offender is released from imprisonment under that term and at a hearing conducted in accordance with division (C) of this section, the court may prepare and issue a correction to the judgment of conviction that includes in the judgment of conviction the statement that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison.

(2) If a court prepares and issues a correction to a judgment of conviction as described in division (A)(1) of this section before the offender is released from imprisonment under the prison term the court imposed prior to the effective date of this section, the court shall place upon the journal of the court an entry nunc pro tunc to record the correction to the judgment of conviction and shall provide a copy of the entry to the offender or, if the offender is not physically present at the hearing, shall send a copy of the entry to the department of rehabilitation and correction for delivery to the offender. If the court sends a copy of the entry to the department, the department promptly shall deliver a copy of the entry to the offender. The court's placement upon the journal of the entry nunc pro tunc before the offender is released from imprisonment under the term shall be considered, and shall have the same effect, as if the court at the time of original sentencing had included the statement in the sentence and the judgment of conviction entered on the journal and had notified the offender that the offender will be so supervised regarding a sentence including a prison term of a type described in division (B)(3)(c) of section 2929.19 of the Revised Code or that the offender may be so supervised regarding a sentence including a prison term of a type described in division (B)(3)(d) of that section.

(B)(1) If, prior to the effective date of this section, a court imposed a sentence including a prison term and failed to notify the offender pursuant to division (B)(3)(e) of section 2929.19 of the Revised Code regarding the possibility of the parole board imposing a prison term for a violation of supervision or a condition of post-release control or to include in the judgment of conviction entered on the journal a statement to that effect, at any time before the offender is released from imprisonment under that term and at a hearing conducted in accordance with division (C) of this section, the court may prepare and issue a correction to the judgment of conviction that includes in the judgment of conviction the statement that if a period of supervision is imposed following the offender's release from prison, as described in division (B)(3)(c) or (d) of section 2929.19 of the Revised Code, and if the offender violates that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code the parole board may impose as part of the sentence a prison term of up to one-half of the stated prison term originally imposed upon the offender.

(2) If the court prepares and issues a correction to a judgment of conviction as described in division (B)(1) of this section before the offender is

released from imprisonment under the term, the court shall place upon the journal of the court an entry nunc pro tunc to record the correction to the judgment of conviction and shall provide a copy of the entry to the offender or, if the offender is not physically present at the hearing, shall send a copy of the entry to the department of rehabilitation and correction for delivery to the offender. If the court sends a copy of the entry to the department, the department promptly shall deliver a copy of the entry to the offender. The court's placement upon the journal of the entry nunc pro tunc before the offender is released from imprisonment under the term shall be considered, and shall have the same effect, as if the court at the time of original sentencing had included the statement in the judgment of conviction entered on the journal and had notified the offender pursuant to division (B)(3)(e) of section 2929.19 of the Revised Code regarding the possibility of the parole board imposing a prison term for a violation of supervision or a condition of post-release control.

(C) On and after the effective date of this section, a court that wishes to prepare and issue a correction to a judgment of conviction of a type described in division (A)(1) or (B)(1) of this section shall not issue the correction until after the court has conducted a hearing in accordance with this division. Before a court holds a hearing pursuant to this division, the court shall provide notice of the date, time, place, and purpose of the hearing to the offender who is the subject of the hearing, the prosecuting attorney of the county, and the department of rehabilitation and correction. The offender has the right to be physically present at the hearing, except that, upon the court's own motion or the motion of the offender or the prosecuting attorney, the court may permit the offender to appear at the hearing by video conferencing equipment if available and compatible. An appearance by video conferencing equipment pursuant to this division has the same force and effect as if the offender were physically present at the hearing. At the hearing, the offender and the prosecuting attorney may make a statement as to whether the court should issue a correction to the judgment of conviction."

Between lines 1020 and 1021, insert:

"**Sec. 2967.28.** (A) As used in this section:

(1) "Monitored time" means the monitored time sanction specified in section 2929.17 of the Revised Code.

(2) "Deadly weapon" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(3) "Felony sex offense" means a violation of a section contained in Chapter 2907. of the Revised Code that is a felony.

(B) Each sentence to a prison term for a felony of the first degree, for a felony of the second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person shall include a requirement that the offender be subject to a period of post-release control



imposed by the parole board after the offender's release from imprisonment. If a court imposes a sentence including a prison term of a type described in this division on or after the effective date of this amendment, the failure of a sentencing court to notify the offender pursuant to division (B)(3)(c) of section 2929.19 of the Revised Code of this requirement or to include in the judgment of conviction entered on the journal a statement that the offender's sentence includes this requirement does not negate, limit, or otherwise affect the mandatory period of supervision that is required for the offender under this division. Section 2929.191 of the Revised Code applies if, prior to the effective date of this amendment, a court imposed a sentence including a prison term of a type described in this division and failed to notify the offender pursuant to division (B)(3)(c) of section 2929.19 of the Revised Code regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence pursuant to division (F)(1) of section 2929.14 of the Revised Code a statement regarding post-release control. Unless reduced by the parole board pursuant to division (D) of this section when authorized under that division, a period of post-release control required by this division for an offender shall be of one of the following periods:

(1) For a felony of the first degree or for a felony sex offense, five years;

(2) For a felony of the second degree that is not a felony sex offense, three years;

(3) For a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened physical harm to a person, three years.

(C) Any sentence to a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (B)(1) or (3) of this section shall include a requirement that the offender be subject to a period of post-release control of up to three years after the offender's release from imprisonment, if the parole board, in accordance with division (D) of this section, determines that a period of post-release control is necessary for that offender. Section 2929.191 of the Revised Code applies if, prior to the effective date of this amendment, a court imposed a sentence including a prison term of a type described in this division and failed to notify the offender pursuant to division (B)(3)(d) of section 2929.19 of the Revised Code regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence pursuant to division (F)(2) of section 2929.14 of the Revised Code a statement regarding post-release control.

(D)(1) Before the prisoner is released from imprisonment, the parole board shall impose upon a prisoner described in division (B) of this section, may impose upon a prisoner described in division (C) of this section, and shall impose upon a prisoner described in division (B)(2)(b) of section 5120.031 or in division (B)(1) of section 5120.032 of the Revised Code, one or more post-release control sanctions to apply during the prisoner's period of post-release control. Whenever the board imposes one or more post-release

control sanctions upon a prisoner, the board, in addition to imposing the sanctions, also shall include as a condition of the post-release control that the individual or felon not leave the state without permission of the court or the individual's or felon's parole or probation officer and that the individual or felon abide by the law. The board may impose any other conditions of release under a post-release control sanction that the board considers appropriate, and the conditions of release may include any community residential sanction, community nonresidential sanction, or financial sanction that the sentencing court was authorized to impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the Revised Code. Prior to the release of a prisoner for whom it will impose one or more post-release control sanctions under this division, the parole board shall review the prisoner's criminal history, all juvenile court adjudications finding the prisoner, while a juvenile, to be a delinquent child, and the record of the prisoner's conduct while imprisoned. The parole board shall consider any recommendation regarding post-release control sanctions for the prisoner made by the office of victims' services. After considering those materials, the board shall determine, for a prisoner described in division (B) of this section, division (B)(2)(b) of section 5120.031, or division (B)(1) of section 5120.032 of the Revised Code, which post-release control sanction or combination of post-release control sanctions is reasonable under the circumstances or, for a prisoner described in division (C) of this section, whether a post-release control sanction is necessary and, if so, which post-release control sanction or combination of post-release control sanctions is reasonable under the circumstances. In the case of a prisoner convicted of a felony of the fourth or fifth degree other than a felony sex offense, the board shall presume that monitored time is the appropriate post-release control sanction unless the board determines that a more restrictive sanction is warranted. A post-release control sanction imposed under this division takes effect upon the prisoner's release from imprisonment.

Regardless of whether the prisoner was sentenced to the prison term prior to, on, or after the effective date of this amendment, prior to the release of a prisoner for whom it will impose one or more post-release control sanctions under this division, the parole board shall notify the prisoner that, if the prisoner violates any sanction so imposed or any condition of post-release control described in division (B) of section 2967.131 of the Revised Code that is imposed on the prisoner, the parole board may impose a prison term of up to one-half of the stated prison term originally imposed upon the prisoner.

(2) At any time after a prisoner is released from imprisonment and during the period of post-release control applicable to the releasee, the adult parole authority may review the releasee's behavior under the post-release control sanctions imposed upon the releasee under this section. The authority may determine, based upon the review and in accordance with the standards established under division (E) of this section, that a more restrictive or a less restrictive sanction is appropriate and may impose a different sanction. Unless the period of post-release control was imposed for an offense described in

division (B)(1) of this section, the authority also may recommend that the parole board reduce the duration of the period of post-release control imposed by the court. If the authority recommends that the board reduce the duration of control for an offense described in division (B)(2), (B)(3), or (C) of this section, the board shall review the releasee's behavior and may reduce the duration of the period of control imposed by the court. In no case shall the board reduce the duration of the period of control imposed by the court for an offense described in division (B)(1) of this section, and in no case shall the board permit the releasee to leave the state without permission of the court or the releasee's parole or probation officer.

(E) The department of rehabilitation and correction, in accordance with Chapter 119. of the Revised Code, shall adopt rules that do all of the following:

(1) Establish standards for the imposition by the parole board of post-release control sanctions under this section that are consistent with the overriding purposes and sentencing principles set forth in section 2929.11 of the Revised Code and that are appropriate to the needs of releasees;

(2) Establish standards by which the parole board can determine which prisoners described in division (C) of this section should be placed under a period of post-release control;

(3) Establish standards to be used by the parole board in reducing the duration of the period of post-release control imposed by the court when authorized under division (D) of this section, in imposing a more restrictive post-release control sanction than monitored time upon a prisoner convicted of a felony of the fourth or fifth degree other than a felony sex offense, or in imposing a less restrictive control sanction upon a releasee based on the releasee's activities including, but not limited to, remaining free from criminal activity and from the abuse of alcohol or other drugs, successfully participating in approved rehabilitation programs, maintaining employment, and paying restitution to the victim or meeting the terms of other financial sanctions;

(4) Establish standards to be used by the adult parole authority in modifying a releasee's post-release control sanctions pursuant to division (D)(2) of this section;

(5) Establish standards to be used by the adult parole authority or parole board in imposing further sanctions under division (F) of this section on releasees who violate post-release control sanctions, including standards that do the following:

(a) Classify violations according to the degree of seriousness;

(b) Define the circumstances under which formal action by the parole board is warranted;

(c) Govern the use of evidence at violation hearings;

(d) Ensure procedural due process to an alleged violator;

(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;

(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.

(F)(1) ~~If a post-release control sanction is imposed~~ Whenever the parole board imposes one or more post-release control sanctions upon an offender under this section, the offender upon release from imprisonment shall be under the general jurisdiction of the adult parole authority and generally shall be supervised by the field services section through its staff of parole and field officers as described in section 5149.04 of the Revised Code, as if the offender had been placed on parole. If the offender upon release from imprisonment violates the post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed on the offender, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation directly to the adult parole authority or to the officer of the authority who supervises the offender. The authority's officers may treat the offender as if the offender were on parole and in violation of the parole, and otherwise shall comply with this section.

(2) If the adult parole authority determines that a releasee has violated a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code imposed upon the releasee and that a more restrictive sanction is appropriate, the authority may impose a more restrictive sanction upon the releasee, in accordance with the standards established under division (E) of this section, or may report the violation to the parole board for a hearing pursuant to division (F)(3) of this section. The authority may not, pursuant to this division, increase the duration of the releasee's post-release control or impose as a post-release control sanction a residential sanction that includes a prison term, but the authority may impose on the releasee any other residential sanction, nonresidential sanction, or financial sanction that the sentencing court was authorized to impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the Revised Code.

(3) The parole board may hold a hearing on any alleged violation by a releasee of a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed upon the releasee. If after the hearing the board finds that the releasee violated the sanction or condition, the board may increase the duration of the releasee's post-release control up to the maximum duration authorized by division (B) or (C) of this section or impose a more restrictive post-release control sanction. When appropriate, the board may impose as a post-release control sanction a residential sanction that includes a prison term. The board shall consider a prison term as a post-release control sanction imposed for a violation of post-release control when the violation involves a deadly weapon or dangerous ordnance, physical harm or attempted serious physical harm to a person, or sexual misconduct, or

when the releasee committed repeated violations of post-release control sanctions. The period of a prison term that is imposed as a post-release control sanction under this division shall not exceed nine months, and the maximum cumulative prison term for all violations under this division shall not exceed one-half of the stated prison term originally imposed upon the offender as part of this sentence. The period of a prison term that is imposed as a post-release control sanction under this division shall not count as, or be credited toward, the remaining period of post-release control.

If an offender is imprisoned for a felony committed while under post-release control supervision and is again released on post-release control for a period of time determined by division (F)(4)(d) of this section, the maximum cumulative prison term for all violations under this division shall not exceed one-half of the total stated prison terms of the earlier felony, reduced by any prison term administratively imposed by the parole board, plus one-half of the total stated prison term of the new felony.

(4) Any period of post-release control shall commence upon an offender's actual release from prison. If an offender is serving an indefinite prison term or a life sentence in addition to a stated prison term, the offender shall serve the period of post-release control in the following manner:

(a) If a period of post-release control is imposed upon the offender and if the offender also is subject to a period of parole under a life sentence or an indefinite sentence, and if the period of post-release control ends prior to the period of parole, the offender shall be supervised on parole. The offender shall receive credit for post-release control supervision during the period of parole. The offender is not eligible for final release under section 2967.16 of the Revised Code until the post-release control period otherwise would have ended.

(b) If a period of post-release control is imposed upon the offender and if the offender also is subject to a period of parole under an indefinite sentence, and if the period of parole ends prior to the period of post-release control, the offender shall be supervised on post-release control. The requirements of parole supervision shall be satisfied during the post-release control period.

(c) If an offender is subject to more than one period of post-release control, the period of post-release control for all of the sentences shall be the period of post-release control that expires last, as determined by the parole board. Periods of post-release control shall be served concurrently and shall not be imposed consecutively to each other.

(d) The period of post-release control for a releasee who commits a felony while under post-release control for an earlier felony shall be the longer of the period of post-release control specified for the new felony under division (B) or (C) of this section or the time remaining under the period of post-release control imposed for the earlier felony as determined by the parole board."

In line 2762, after "2152.72," insert "2929.14, 2929.19,"; after "2930.13," insert "2967.28,"

After line 2764, insert:

**"Section 3.** That the version of section 2929.14 of the Revised Code that is scheduled to take effect August 3, 2006, be amended to read as follows:

**Sec. 2929.14.** (A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), or (G) of this section and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:

(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, or ten years.

(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years.

(3) For a felony of the third degree, the prison term shall be one, two, three, four, or five years.

(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months.

(5) For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months.

(B) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(5), (D)(6), or (G) of this section, in section 2907.02 or 2907.05 of the Revised Code, or in Chapter 2925. of the Revised Code, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender, the court shall impose the shortest prison term authorized for the offense pursuant to division (A) of this section, unless one or more of the following applies:

(1) The offender was serving a prison term at the time of the offense, or the offender previously had served a prison term.

(2) The court finds on the record that the shortest prison term will demean the seriousness of the offender's conduct or will not adequately protect the public from future crime by the offender or others.

(C) Except as provided in division (G) of this section or in Chapter 2925. of the Revised Code, the court imposing a sentence upon an offender for a felony may impose the longest prison term authorized for the offense pursuant to division (A) of this section only upon offenders who committed the worst forms of the offense, upon offenders who pose the greatest likelihood of committing future crimes, upon certain major drug offenders under division (D)(3) of this section, and upon certain repeat violent offenders in accordance with division (D)(2) of this section.

(D)(1)(a) Except as provided in division (D)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141, 2941.144, or 2941.145 of the Revised Code, the court shall impose on the offender one of the following prison terms:

(i) A prison term of six years if the specification is of the type described in section 2941.144 of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or silencer on or about the offender's person or under the offender's control while committing the felony;

(ii) A prison term of three years if the specification is of the type described in section 2941.145 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and displaying the firearm, brandishing the firearm, indicating that the offender possessed the firearm, or using it to facilitate the offense;

(iii) A prison term of one year if the specification is of the type described in section 2941.141 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the felony.

(b) If a court imposes a prison term on an offender under division (D)(1)(a) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(1)(a) of this section for felonies committed as part of the same act or transaction.

(c) Except as provided in division (D)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2923.161 of the Revised Code or to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another, also is convicted of or pleads guilty to a specification of the type described in section 2941.146 of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle other than a manufactured home, the court, after imposing a prison term on the offender for the violation of section 2923.161 of the Revised Code or for the other felony offense under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term of five years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one additional prison term on an offender under division (D)(1)(c) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (D)(1)(c) of this section relative to an offense, the court also shall impose a prison term under division (D)(1)(a) of this section relative to the same offense, provided the criteria

specified in that division for imposing an additional prison term are satisfied relative to the offender and the offense.

(d) If an offender who is convicted of or pleads guilty to an offense of violence that is a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.1411 of the Revised Code that charges the offender with wearing or carrying body armor while committing the felony offense of violence, the court shall impose on the offender a prison term of two years. The prison term so imposed shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(1)(d) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term under division (D)(1)(a) or (c) of this section, the court is not precluded from imposing an additional prison term under division (D)(1)(d) of this section.

(e) The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division (D)(1)(c) of this section upon an offender for a violation of section 2923.12 or 2923.123 of the Revised Code. The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division (D)(1)(c) of this section upon an offender for a violation of section 2923.13 of the Revised Code unless all of the following apply:

(i) The offender previously has been convicted of aggravated murder, murder, or any felony of the first or second degree.

(ii) Less than five years have passed since the offender was released from prison or post-release control, whichever is later, for the prior offense.

(f) If an offender is convicted of or pleads guilty to a felony that includes, as an essential element, causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in section 2941.1412 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer as defined in section 2935.01 of the Revised Code or a corrections officer as defined in section 2941.1412 of the Revised Code, the court, after imposing a prison term on the offender for the felony offense under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term of seven years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one additional prison term on an offender under division (D)(1)(f) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (D)(1)(f) of this section relative to an offense, the court shall not impose a prison term under division (D)(1)(a) or (c) of this section relative to the same offense.



(2)(a) If division (D)(2)(b) of this section does not apply, the court may impose on an offender, in addition to the longest prison term authorized or required for the offense, an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender.

(ii) The offense of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole, murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.

(iii) The court imposes the longest prison term for the offense that is not life imprisonment without parole.

(iv) The court finds that the prison terms imposed pursuant to division (D)(2)(a)(iii) of this section and, if applicable, division (D)(1) or (3) of this section are inadequate to punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a greater likelihood of recidivism outweigh the applicable factors under that section indicating a lesser likelihood of recidivism.

(v) The court finds that the prison terms imposed pursuant to division (D)(2)(a)(iii) of this section and, if applicable, division (D)(1) or (3) of this section are demeaning to the seriousness of the offense, because one or more of the factors under section 2929.12 of the Revised Code indicating that the offender's conduct is more serious than conduct normally constituting the offense are present, and they outweigh the applicable factors under that section indicating that the offender's conduct is less serious than conduct normally constituting the offense.

(b) The court shall impose on an offender the longest prison term authorized or required for the offense and shall impose on the offender an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender.

(ii) The offender within the preceding twenty years has been convicted of or pleaded guilty to three or more offenses described in division (DD)(1) of

section 2929.01 of the Revised Code, including all offenses described in that division of which the offender is convicted or to which the offender pleads guilty in the current prosecution and all offenses described in that division of which the offender previously has been convicted or to which the offender previously pleaded guilty, whether prosecuted together or separately.

(iii) The offense or offenses of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole, murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.

(c) For purposes of division (D)(2)(b) of this section, two or more offenses committed at the same time or as part of the same act or event shall be considered one offense, and that one offense shall be the offense with the greatest penalty.

(d) A sentence imposed under division (D)(2)(a) or (b) of this section shall not be reduced pursuant to section 2929.20 or section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. The offender shall serve an additional prison term imposed under this section consecutively to and prior to the prison term imposed for the underlying offense.

(e) When imposing a sentence pursuant to division (D)(2)(a) or (b) of this section, the court shall state its findings explaining the imposed sentence.

(3)(a) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of section 2903.02 of the Revised Code, if the offender commits a violation of section 2925.03 or 2925.11 of the Revised Code and that section classifies the offender as a major drug offender and requires the imposition of a ten-year prison term on the offender, if the offender commits a felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, division (C) or (D) of section 3719.172, division (C) of section 4729.51, or division (J) of section 4729.54 of the Revised Code that includes the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and the court imposing sentence upon the offender finds that the offender is guilty of a specification of the type described in section 2941.1410 of the Revised Code charging that the offender is a major drug offender, if the court imposing sentence upon an offender for a felony finds that the offender is guilty of corrupt activity with the most serious offense in the pattern of corrupt activity being a felony of the first degree, or if the offender is guilty of an attempted violation of section 2907.02 of the Revised Code and, had the offender completed the violation of section 2907.02 of the Revised Code that was attempted, the

offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the offender for the felony violation a ten-year prison term that cannot be reduced pursuant to section 2929.20 or Chapter 2967. or 5120. of the Revised Code.

(b) The court imposing a prison term on an offender under division (D)(3)(a) of this section may impose an additional prison term of one, two, three, four, five, six, seven, eight, nine, or ten years, if the court, with respect to the term imposed under division (D)(3)(a) of this section and, if applicable, divisions (D)(1) and (2) of this section, makes both of the findings set forth in divisions (D)(2)(a)(iv) and (v) of this section.

(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A)(4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (D)(4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term in the range of six months to thirty months for a fourth degree felony OVI offense and shall equal one of the authorized prison terms specified in division (A)(3) of this section for a third degree felony OVI offense. If the court imposes an additional prison term under division (D)(4) of this section, the offender shall serve the additional prison term after the offender has served the mandatory prison term required for the offense. In addition to the mandatory prison term or mandatory and additional prison term imposed as described in division (D)(4) of this section, the court also may sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code and the court imposes a mandatory term of local incarceration, the court may impose a prison term as described in division (A)(1) of that section.

(5) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1414 of the Revised Code that charges that the victim of the offense is a

peace officer, as defined in section 2935.01 of the Revised Code, the court shall impose on the offender a prison term of five years. If a court imposes a prison term on an offender under division (D)(5) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(5) of this section for felonies committed as part of the same act.

(6) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1415 of the Revised Code that charges that the offender previously has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (D)(6) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(6) of this section for felonies committed as part of the same act.

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division consecutively to any other mandatory prison term imposed under either division or under division (D)(1)(d) of this section, consecutively to and prior to any prison term imposed for the underlying felony pursuant to division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(b) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(d) of this section for wearing or carrying body armor while committing an offense of violence that is a felony, the offender shall serve the mandatory term so imposed consecutively to any other mandatory prison term imposed under that division or under division (D)(1)(a) or (c) of this section, consecutively to and prior to any prison term imposed for the underlying felony under division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(c) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(f) of this section, the offender shall serve the mandatory prison term so imposed consecutively to and prior to any prison term imposed for the underlying felony under division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(2) If an offender who is an inmate in a jail, prison, or other residential detention facility violates section 2917.02, 2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender who is under detention at a detention facility commits a felony violation of section 2923.131 of the Revised Code, or if an offender who is an inmate in a jail, prison, or other residential detention facility or is under detention at a detention facility commits another felony while the offender is an escapee in violation of section 2921.34 of the Revised Code, any prison term imposed upon the offender for one of those violations shall be served by the offender consecutively to the prison term or term of imprisonment the offender was serving when the offender committed that offense and to any other prison term previously or subsequently imposed upon the offender.

(3) If a prison term is imposed for a violation of division (B) of section 2911.01 of the Revised Code, a violation of division (A) of section 2913.02 of the Revised Code in which the stolen property is a firearm or dangerous ordnance, or a felony violation of division (B) of section 2921.331 of the Revised Code, the offender shall serve that prison term consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(4) If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court may require the offender to serve the prison terms consecutively if the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public, and if the court also finds any of the following:

(a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release control for a prior offense.

(b) At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

(5) If a mandatory prison term is imposed upon an offender pursuant to division (D)(5) or (6) of this section, the offender shall serve the mandatory prison term consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section. If a mandatory prison term is imposed upon an offender pursuant to division (D)(5) of this section, and if a mandatory prison term also is imposed upon the offender pursuant to division (D)(6) of this section in relation to the same violation, the offender shall serve the mandatory prison term imposed pursuant to division (D)(5) of this section consecutively to and prior to the mandatory prison term imposed pursuant to division (D)(6) of this section and consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section.

(6) When consecutive prison terms are imposed pursuant to division (E)(1), (2), (3), (4), or (5) of this section, the term to be served is the aggregate of all of the terms so imposed.

~~(F)(1) If a court imposes a prison term of a type described in division (B) of section 2967.28 of the Revised Code for a felony of the first degree, for a felony of the second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division. If a court imposes a sentence including a prison term of a type described in this division on or after the effective date of this amendment, the failure of a court to include a post-release control requirement in the sentence pursuant to this division does not negate, limit, or otherwise affect the mandatory period of post-release control that is required for the offender under division (B) of section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to the effective date of this amendment, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.~~

~~(2) If a court imposes a prison term of a type described in division (C) of that section for a felony of the third, fourth, or fifth degree that is not subject to division (F)(1) of this section, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division, if the parole board determines that a period of post-release control is necessary. Section 2929.191 of the Revised Code applies if, prior to the effective date of this amendment, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.~~

(G) If a person is convicted of or pleads guilty to a violent sex offense or

a designated homicide, assault, or kidnapping offense and, in relation to that offense, the offender is adjudicated a sexually violent predator, the court shall impose sentence upon the offender in accordance with section 2971.03 of the Revised Code, and Chapter 2971. of the Revised Code applies regarding the prison term or term of life imprisonment without parole imposed upon the offender and the service of that term of imprisonment.

(H) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

(I) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.142 of the Revised Code that charges the offender with having committed the felony while participating in a criminal gang, the court shall impose upon the offender an additional prison term of one, two, or three years.

(J) If an offender who is convicted of or pleads guilty to aggravated murder, murder, or a felony of the first, second, or third degree that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.143 of the Revised Code that charges the offender with having committed the offense in a school safety zone or towards a person in a school safety zone, the court shall impose upon the offender an additional prison term of two years. The offender shall serve the additional two years consecutively to and prior to the prison term imposed for the underlying offense.

(K) At the time of sentencing, the court may recommend the offender for placement in a program of shock incarceration under section 5120.031 of the Revised Code or for placement in an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program of shock incarceration or an intensive program prison of that nature, or make no recommendation on placement of the offender. In no case shall the department of rehabilitation and correction place the offender in a program or prison of that nature unless the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for the placement.

If the court disapproves placement of the offender in a program or prison of that nature, the department of rehabilitation and correction shall not place the offender in any program of shock incarceration or intensive program prison.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison, and if the offender is subsequently placed in the recommended program or prison, the department shall notify the court of the placement and shall include with the notice a brief

description of the placement.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison and the department does not subsequently place the offender in the recommended program or prison, the department shall send a notice to the court indicating why the offender was not placed in the recommended program or prison.

If the court does not make a recommendation under this division with respect to an offender and if the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature, the department shall screen the offender and determine if there is an available program of shock incarceration or an intensive program prison for which the offender is suited. If there is an available program of shock incarceration or an intensive program prison for which the offender is suited, the department shall notify the court of the proposed placement of the offender as specified in section 5120.031 or 5120.032 of the Revised Code and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

**Section 4.** That the existing version of section 2929.14 of the Revised Code that is scheduled to take effect August 3, 2006, is hereby repealed.

**Section 5.** (A) The General Assembly hereby declares that its purpose in amending sections 2929.14, 2929.19, and 2967.28 and enacting section 2929.191 of the Revised Code in Sections 1 and 2 of this act and in amending section 2929.14 of the Revised Code in Sections 3 and 4 of this act is to reaffirm that, under the amended sections as they existed prior to the effective date of this act: (1) by operation of law and without need for any prior notification or warning, every convicted offender sentenced to a prison term for a felony of the first or second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person always is subject to a period of post-release control after the offender's release from imprisonment pursuant to and for the period of time described in division (B) of section 2967.28 of the Revised Code; (2) by operation of law, every convicted offender sentenced to a prison term for a felony of the third, fourth, or fifth degree that is not subject to the provision described in clause (1) of this sentence is subject to a period of post-release control after the offender's release from imprisonment pursuant to division (C) of section 2967.28 of the Revised Code if the parole board determines in accordance with specified criteria that post-release control is necessary; and (3) by operation of law and without need for any prior notification or warning, every convicted offender sentenced to a prison term and subjected to supervision under a period of post-release control after the offender's release from imprisonment always is subject to having the Parole Board impose in accordance with section 2967.28 of the Revised Code a prison term of up to one-half of the stated prison term originally imposed upon the



offender if the offender violates that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code.

(B) The General Assembly hereby declares that it believes that the amendments made to sections 2929.14, 2929.19, and 2967.28 and the enactment of section 2929.191 of the Revised Code in Sections 1 and 2 of this act and the amendment made to section 2929.14 of the Revised Code in Sections 3 and 4 of this act are not substantive in nature and merely clarify that the amended sections operate as described in division (A) of this Section, that the convicted offenders described in clause (1) under division (A) of this Section always are subject by operation of law and without need for any prior notification or warning to a period of post-release control after their release from imprisonment as described in that division, that the convicted offenders described in clause (2) under division (A) of this Section are subject by operation of law to post-release control after their release from imprisonment if the Parole Board makes certain determinations, that the convicted offenders described in clause (3) under division (A) of this Section always are subject by operation of law to having the Parole Board impose a prison term if they violate their supervision or a condition of post-release control as described in that division, and that the amendments made to sections 2929.14, 2929.19, and 2967.28 and the enactment of section 2929.191 of the Revised Code in Sections 1 and 2 of this act and the amendment made to section 2929.14 of the Revised Code in Sections 3 and 4 of this act thus are remedial in nature. The General Assembly declares that it intends that the clarifying, remedial amendments made to sections 2929.14, 2929.19, and 2967.28 and the enactment of section 2929.191 of the Revised Code in Sections 1 and 2 of this act and the amendment made to section 2929.14 of the Revised Code in Sections 3 and 4 of this act apply to all convicted offenders described in division (A) of this Section, regardless of whether they were sentenced prior to, or are sentenced on or after, the effective date of this act.

**Section 6.** Sections 2151.313, 2152.72, 2930.13, 3301.0714, 3313.64, 3313.662, 3314.03, 3323.01, and 4301.69 of the Revised Code, as amended by this act, section 2151.357 (2151.362) of the Revised Code as amended by this act for the purpose of adopting a new section number, new sections 2151.357 and 2151.358 and sections 2151.355 and 2151.356 of the Revised Code, as enacted by this act, and the repeal of section 2151.358 of the Revised Code by this act shall take effect ninety days after the effective date of this act.

**Section 7.** This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that the amendments made in this act are crucially needed to clarify the law to protect the residents of this state from the consequences that might result if the state is forced to release without supervision offenders who have been convicted of serious offenses and imprisoned, solely because the offenders were not provided notice of the fact that the law always requires their supervision upon release from prison. Therefore, this act shall go into immediate effect."

In line 1 of the title, after "2152.72," insert "2929.14, 2929.19,"; after

"2930.13," insert "2967.28,"

In line 6 of the title, delete the third "and" and insert a comma

In line 7 of the title, after "2151.356" insert ", and 2929.191"

In line 11 of the title, after "offenders" insert ", to make changes to the post-release control law, to amend the version of section 2929.14 of the Revised Code that is scheduled to take effect on August 3, 2006, to continue the provisions of this act on and after that effective date, and to declare an emergency"

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted - yeas 30, nays 3, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Mumper	Niehaus
Padgett	Roberts	Schuler	Schuring
Spada	Stivers	Wachtmann	Wilson
Zurz			Harris-30.

Senators Miller D, Miller R, and Prentiss voted in the negative-3.

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 137**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

Senator Miller D voted in the negative-1.

So the bill passed.

The question being, "Shall the title be agreed to?"

The title was agreed to.

**Sub. H. B. No. 150**-Representatives Gibbs, McGregor, J., Ujvagi, Evans, C., Kearns, Williams, Hagan, Reidelbach, Collier, Distel, Miller, Cassell, Schaffer, Barrett, Blessing, Chandler, Combs, Schneider, Stewart, D.,

Willamowski.

To amend sections 4513.61, 4737.10, 4737.99, and 4738.16 of the Revised Code to impose new requirements on licensed junk yard owners, to require scrap metal processors to maintain specified records regarding canceled motor vehicle titles, and to allow specified law enforcement officials to relinquish jurisdiction over towed vehicles to specified storage place owners, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 150**, pass?"

Senator Stivers moved to amend as follows:

In line 196, delete "suspend" and insert "revoke"

The question being, "Shall the amendment be agreed to?"

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 150**, pass?"

Senator Carey moved to amend as follows:

In lines 9 and 250, after "4513.61," insert "4735.01, 4735.16, 4735.18, 4735.51, 4735.63, 4735.65,"

In line 10, after "4738.16" insert "be amended and sections 4735.621 and 4735.75"; delete "amended" and insert "enacted"

Between lines 88 and 89, insert:

**"Sec. 4735.01.** As used in this chapter:

(A) "Real estate broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration does any of the following:

(1) Sells, exchanges, purchases, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of any real estate;

(2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate;

(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;

(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;

(6) Advertises or holds self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;

(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;

(8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;

(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(C) "Real estate salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise.

(D) "Institution of higher education" means either of the following:

(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school;

(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school.

(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(F) "Foreign real estate dealer" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of

receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate.

(G) "Foreign real estate salesperson" means any person associated with a licensed foreign real estate dealer to do or deal in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate, for compensation or otherwise.

(H) Any person, partnership, association, limited liability company, limited liability partnership, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker, whether an act is an incidental part of a transaction, or the entire transaction, shall be constituted a real estate broker or real estate salesperson under this chapter.

(I) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

(1) With reference to real estate situated in this state or any interest in it owned by such person, partnership, association, limited liability company, limited liability partnership, or corporation, or acquired on its own account in the regular course of, or as an incident to the management of the property and the investment in it;

(2) As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, will, or other instrument creating a like bona fide fiduciary obligation;

(3) As a public officer while performing the officer's official duties;

(4) As an attorney at law in the performance of the attorney's duties;

(5) As a person who engages in the brokering of the sale of business assets, not including the negotiation of the sale, lease, exchange, or assignment of any interest in real estate;

(6) As a person who engages in the sale of manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code, or of mobile homes as defined in division (O) of section 4501.01 of the Revised Code, provided the sale does not include the negotiation, sale, lease, exchange, or

assignment of any interest in real estate;

(7) As a person who engages in the sale of commercial real estate pursuant to the requirements of section 4735.022 of the Revised Code.

(J) "Physically handicapped licensee" means a person licensed pursuant to this chapter who is under a severe physical disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration.

(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker.

(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and renewed as required under this chapter or rules adopted under this chapter.

(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a license under this chapter for a specified interval of time.

(P) "Reactivate" means the process prescribed by the superintendent of real estate and professional licensing to remove a license from an inactive, suspended, or broker's license on deposit status to allow a licensee to provide services that require a license under this chapter.

(Q) "Revoked" means the license status in which the license is void and not eligible for reactivation.

(R) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include single-family residential units such as condominiums, townhouses, manufactured homes, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even when those units are a part of a larger building or parcel of real estate containing more than four residential units.

(S) "Out-of-state commercial broker" includes any person, partnership,

association, limited liability company, limited liability partnership, or corporation that is licensed to do business as a real estate broker in a jurisdiction other than Ohio.

(T) "Out-of-state commercial salesperson" includes any person affiliated with an out-of-state commercial broker who is not licensed as a real estate salesperson in Ohio.

(U) "Exclusive right to sell or lease listing agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker, the seller, or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement to anyone other than to specifically exempted persons or entities.

(V) "Exclusive agency agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement, unless the property is sold or leased solely through the efforts of the seller or to the specifically exempted persons or entities.

(W) "Exclusive purchaser agency agreement" means an agency agreement between a purchaser and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the purchaser in the purchase or lease of property;

(2) Provides the broker will be compensated in accordance with the terms specified in the exclusive agency agreement or if a property is purchased or leased by the purchaser during the term of the agency agreement unless the property is specifically exempted in the agency agreement.

The agreement may authorize the broker to receive compensation from the seller or the seller's agent and may provide that the purchaser is not obligated to compensate the broker if the property is purchased or leased solely through the efforts of the purchaser.

(X) "Seller" means a party in a real estate transaction who is the potential

transferor of property. "Seller" includes an owner of property who is seeking to sell the property and a landlord who is seeking to rent or lease property to another person.

**Sec. 4735.16.** (A) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state and shall erect or maintain a sign on the premises plainly stating that the licensee is a real estate broker. If the real estate broker maintains one or more branch offices, the real estate broker shall erect or maintain a sign at each branch office plainly stating that the licensee is a real estate broker.

(B)(1) Any licensed real estate broker or salesperson who advertises to buy, sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, including, but not limited to, any licensed real estate broker or salesperson who advertises to sell, exchange, or lease real estate that the licensee owns, shall be identified in the advertisement by name and by indicating that the licensee is a real estate broker or real estate salesperson. Except a real estate salesperson who advertises the sale, exchange, or lease of real estate that the salesperson owns and that is not listed for sale, exchange, or lease with a real estate broker, any real estate salesperson who advertises, as provided in this section, also shall indicate in the advertisement the name of the broker under whom the salesperson is licensed and the fact that the salesperson's broker is a real estate broker. The name of the broker shall be displayed in equal prominence with the name of the salesperson in the advertisement.

(2) A real estate broker who is representing a seller under an exclusive right to sell or lease listing agreement shall not advertise such property to the public as "for sale by owner" or otherwise mislead the public to believe that the seller is not represented by a real estate broker.

(3) If any real estate broker or real estate salesperson advertises in a manner other than as provided in this section or the rules adopted under this section, that advertisement is prima-facie evidence of a violation under division (A)(21) of section 4735.18 of the Revised Code.

When the superintendent determines that prima-facie evidence of a violation of division (A)(21) of section 4735.18 of the Revised Code or any of the rules adopted thereunder exists, the superintendent may do either of the following:

(a) Initiate disciplinary action under section 4735.051 of the Revised Code for a violation of division (A)(21) of section 4735.18 of the Revised Code, in accordance with Chapter 119. of the Revised Code;

(b) Personally, or by certified mail, serve a citation upon the licensee.

(C)(1) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the licensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of two



hundred dollars per violation, not to exceed two thousand five hundred dollars per citation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code.

(2) If any licensee is cited three times within twelve consecutive months, the superintendent shall initiate disciplinary action pursuant to section 4735.051 of the Revised Code for any subsequent violation that occurs within the same twelve-month period.

(3) If a licensee fails to request a hearing within thirty days of the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final.

(4) Unless otherwise indicated, the licensee named in a final citation must meet all requirements contained in the final citation within thirty days of the effective date of that citation.

(5) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (C)(4) of this section.

(D) A real estate broker or salesperson obtaining the signature of a party to a listing or other agreement involved in a real estate transaction shall furnish a copy of the listing or other agreement to the party immediately after obtaining the party's signature. Every broker's office shall prominently display in the same immediate area as licenses are displayed a statement that it is illegal to discriminate against any person because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, national origin, disability as defined in that section, or ancestry in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services and that blockbusting also is illegal. The statement shall bear the United States department of housing and urban development equal housing logo, shall contain the information that the broker and the broker's salespersons are licensed by the division of real estate and that the division can assist with any consumer complaints or inquiries, and shall explain the provisions of section 4735.12 of the Revised Code. The statement shall provide the division's address and telephone number. The Ohio real estate commission shall provide by rule for the wording and size of the statement. The pamphlet required under section 4735.03 of the Revised Code shall contain the same statement that is required on the statement displayed as provided in this section and shall be made available by real estate brokers and salespersons to their clients. The commission shall provide the wording and size of the pamphlet.

**Sec. 4735.18.** (A) Subject to section 4735.32 of the Revised Code, the superintendent of real estate, upon the superintendent's own motion, may investigate the conduct of any licensee. Subject to section 4735.32 of the Revised Code, the Ohio real estate commission shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any licensee

who, whether or not acting in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found to have been convicted of a felony or a crime of moral turpitude, and shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any licensee who, in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found guilty of:

- (1) Knowingly making any misrepresentation;
- (2) Making any false promises with intent to influence, persuade, or induce;
- (3) A continued course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise;
- (4) Acting for more than one party in a transaction except as permitted by and in compliance with section 4735.71 of the Revised Code;
- (5) Failure within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to others;
- (6) Dishonest or illegal dealing, gross negligence, incompetency, or misconduct;
- (7)(a) By final adjudication by a court, a violation of any municipal or federal civil rights law relevant to the protection of purchasers or sellers of real estate or, by final adjudication by a court, any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate, in the licensee's practice as a licensed real estate broker or salesperson;
- (b) A second or subsequent violation of any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code or any second or subsequent violation of municipal or federal civil rights laws relevant to purchasing or selling real estate whether or not there has been a final adjudication by a court, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate. For any second offense under this division, the commission shall suspend for a minimum of two months or revoke the license of the broker or salesperson. For any subsequent offense, the commission shall revoke the license of the broker or salesperson.
- (8) Procuring a license under this chapter, for the licensee or any salesperson by fraud, misrepresentation, or deceit;
- (9) Having violated or failed to comply with any provision of sections 4735.51 to 4735.74 of the Revised Code or having willfully disregarded or violated any other provisions of this chapter;
- (10) As a real estate broker, having demanded, without reasonable cause, other than from a broker licensed under this chapter, a commission to which the

licensee is not entitled, or, as a real estate salesperson, having demanded, without reasonable cause, a commission to which the licensee is not entitled;

(11) Except as permitted under section 4735.20 of the Revised Code, having paid commissions or fees to, or divided commissions or fees with, anyone not licensed as a real estate broker or salesperson under this chapter or anyone not operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(12) Having falsely represented membership in any real estate professional association of which the licensee is not a member;

(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;

(14) Having offered anything of value other than the consideration recited in the sales contract as an inducement to a person to enter into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;

(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;

(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;

(17) Having placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's authorized agent;

(18) Having induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu of it a new contract with another principal;

(19) Having negotiated the sale, exchange, or lease of any real property directly with ~~an owner~~ a seller, purchaser, lessor, or tenant knowing that such ~~ownerseller, purchaser, lessor, or tenant had a written outstanding contract granting exclusive agency in connection with such property to another real estate broker~~ is represented by another broker under a written exclusive agency agreement, exclusive right to sell or lease listing agreement, or exclusive purchaser agency agreement with respect to such property except as provided for in section 4735.75 of the Revised Code;

(20) Having offered real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

(21) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any properties, terms, values, policies, or services of the business conducted;

(22) Having knowingly withheld from or inserted in any statement of account or invoice any statement that made it inaccurate in any material particular;

(23) Having published or circulated unjustified or unwarranted threats of legal proceedings which tended to or had the effect of harassing competitors or intimidating their customers;

(24) Having failed to keep complete and accurate records of all transactions for a period of three years from the date of the transaction, such records to include copies of listing forms, earnest money receipts, offers to purchase and acceptances of them, records of receipts and disbursements of all funds received by the licensee as broker and incident to the licensee's transactions as such, and records required pursuant to divisions (C)(4) and (5) of section 4735.20 of the Revised Code, and any other instruments or papers related to the performance of any of the acts set forth in the definition of a real estate broker;

(25) Failure of a real estate broker or salesperson to furnish all parties involved in a real estate transaction true copies of all listings and other agreements to which they are a party, at the time each party signs them;

(26) Failure to maintain at all times a special or trust bank account in a depository located in this state. The account shall be noninterest-bearing, separate and distinct from any personal or other account of the broker, and, except as provided in division (A)(27) of this section, shall be used for the deposit and maintenance of all escrow funds, security deposits, and other moneys received by the broker in a fiduciary capacity. The name, account number, if any, and location of the depository wherein such special or trust account is maintained shall be submitted in writing to the superintendent. Checks drawn on such special or trust bank accounts are deemed to meet the conditions imposed by section 1349.21 of the Revised Code.

(27) Failure to maintain at all times a special or trust bank account in a depository in this state, to be used exclusively for the deposit and maintenance of all rents, security deposits, escrow funds, and other moneys received by the broker in a fiduciary capacity in the course of managing real property. This account shall be separate and distinct from any other account maintained by the broker. The name, account number, and location of the depository shall be submitted in writing to the superintendent. This account may earn interest, which shall be paid to the property owners on a pro rata basis.

Division (A)(27) of this section does not apply to brokers who are not engaged in the management of real property on behalf of real property owners.

(28) Having failed to put definite expiration dates in all written agency agreements to which the broker is a party;

(29) Having an unsatisfied final judgment in any court of record against the licensee arising out of the licensee's conduct as a licensed broker or

salesperson;

(30) Failing to render promptly upon demand a full and complete statement of the expenditures by the broker or salesperson of funds advanced by or on behalf of a party to a real estate transaction to the broker or salesperson for the purpose of performing duties as a licensee under this chapter in conjunction with the real estate transaction;

(31) Failure within a reasonable time, after the receipt of the commission by the broker, to render an accounting to and pay a real estate salesperson the salesperson's earned share of it;

(32) Performing any service for another constituting the practice of law, as determined by any court of law;

(33) Having been adjudicated incompetent for the purpose of holding the license by a court, as provided in section 5122.301 of the Revised Code. A license revoked or suspended under this division shall be reactivated upon proof to the commission of the removal of the disability.

(34) Having authorized or permitted a person to act as an agent in the capacity of a real estate broker, or a real estate salesperson, who was not then licensed as a real estate broker or real estate salesperson under this chapter or who was not then operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(35) Having knowingly inserted or participated in inserting any materially inaccurate term in a document, including naming a false consideration;

(36) Having failed to inform the licensee's client of the existence of an offer or ~~counter offer~~counteroffer or having failed to present an offer or ~~counter offer~~counteroffer in a timely manner, unless otherwise instructed by the client, provided the instruction of the client does not conflict with any state or federal law.

(B) Whenever the commission, pursuant to section 4735.051 of the Revised Code, imposes disciplinary sanctions for any violation of this section, the commission also may impose such sanctions upon the broker with whom the salesperson is affiliated if the commission finds that the broker had knowledge of the salesperson's actions that violated this section.

(C) The commission shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any foreign real estate dealer or salesperson who, in that capacity or in handling the dealer's or salesperson's own property, is found guilty of any of the acts or omissions specified or comprehended in division (A) of this section insofar as the acts or omissions pertain to foreign real estate. If the commission imposes such sanctions upon a foreign real estate salesperson for a violation of this section, the commission also may suspend or revoke the license of the foreign real estate dealer with whom the salesperson is affiliated if the commission finds that the dealer had

knowledge of the salesperson's actions that violated this section.

(D) The commission may suspend, in whole or in part, the imposition of the penalty of suspension of a license under this section.

(E) The commission immediately shall notify the real estate appraiser board of any disciplinary action taken under this section against a licensee who also is a state-certified real estate appraiser under Chapter 4763. of the Revised Code.

**Sec. 4735.51.** As used in sections 4735.51 to 4735.74 of the Revised Code:

(A) "Agency" and "Agency relationship" mean a relationship in which a licensee represents another person in a real estate transaction.

(B) "Agency agreement" means a contract between a licensee and a client in which the client promises to pay the broker a valuable consideration, or agrees that the licensee may receive a valuable consideration from another, for performing an act that requires a real estate license under this chapter.

(C) "Agent" and "real estate agent" mean a person licensed by this chapter to represent another in a real estate transaction.

(D) "Affiliated licensee" means a real estate broker or a real estate salesperson licensed by this chapter who is affiliated with a brokerage.

(E) "Brokerage" means a corporation, partnership, limited partnership, association, limited liability company, limited liability partnership, or sole proprietorship issued a broker's license. "Brokerage" includes the affiliated licensees who have been assigned management duties that include supervision of licensees whose duties may conflict with those of other affiliated licensees.

(F) "Client" means a person who has entered into an agency relationship with a licensee.

(G) "Confidential information" means all information that a client directs to be kept confidential or that if disclosed would have an adverse effect on the client's position in the real estate transaction, except to the extent the agent is required by law to disclose such information, and all information that is required by law to be kept confidential.

(H) "Dual agency relationship" means any of the dual agency relationships set forth in section 4735.70 of the Revised Code.

(I) "In-company transaction" means a real estate transaction in which the purchaser and seller are both represented by the same brokerage.

(J) "Licensee" means any individual licensed as a real estate broker or salesperson by the Ohio real estate commission pursuant to this chapter.

(K) "Management level licensee" means a licensee who is employed by or affiliated with a real estate broker and who has supervisory responsibility over

other licensees employed by or affiliated with that real estate broker.

(L) "Purchaser" means a party in a real estate transaction who is the potential transferee of property. "Purchaser" includes a person seeking to buy property and a person seeking to rent property as a tenant or lessee.

(M) "Real estate transaction" means any act that is described in division (A) of section 4735.01 of the Revised Code or that is related to the execution of an act described in that section.

~~(N) "Seller" means a party in a real estate transaction who is the potential transferor of property. "Seller" includes an owner of property who is seeking to sell the property and a landlord who is seeking to rent or lease property to another person.~~

~~(O)~~ "Subagency" and "subagency relationship" mean an agency relationship in which a licensee acts for another licensee in performing duties for the client of that licensee.

~~(P)~~(O) "Timely" means as soon as possible under the particular circumstances.

**Sec. 4735.621.** (A) The duties required of a licensee under section 4735.62 of the Revised Code may not be waived by a client.

(B) A licensee shall perform the duties required under section 4735.63 or 4735.65 of the Revised Code unless the client agrees to waive these duties, and signs a waiver of duties statement pursuant to division (C) of this section.

(C) The superintendent of real estate, with the approval of the Ohio real estate commission, shall establish by rule a waiver of duties statement that shall contain the following:

(1) The fiduciary duties required of all licensees under section 4735.62 of the Revised Code;

(2) A list of those duties contained in section 4735.63 or 4735.65 of the Revised Code, which shall be set forth in a manner that allows for the parties to indicate which of those duties are being waived;

(3) A statement that no other licensee is required to perform the waived duty on behalf of the client;

(4) A statement that legal counsel or other professionals may be hired by the client;

(5) A place for the client and licensee to sign and date the statement.

**Sec. 4735.63.** (A) In representing a seller in an agency relationship, a licensee shall ~~promote the interest of the client by doing all of the following:~~

~~(1) Seeking~~Seek a purchase offer at a price and with terms acceptable to the ~~client~~seller. Unless the ~~client~~seller so directs, the licensee is not obligated to seek additional offers if the property is subject to a contract of sale, lease, or

letter of intent to lease;

(2) ~~Presenting~~ Accept delivery of and present any purchase offer to the ~~client~~ seller in a timely manner, even if the property is subject to a contract of sale, lease, or letter of intent to lease;

(3) ~~Prior to presenting the seller an offer to purchase, providing the seller with a copy of any agency disclosure form signed by the purchaser~~ Within the scope of knowledge required for licensure, answer the seller's questions and provide information to the seller regarding any offers or counteroffers;

(4) Assist the seller in developing, communicating, and presenting offers or counteroffers;

(5) Within the scope of knowledge required for licensure, answer the seller's questions regarding the steps the seller must take to fulfill the terms of any contract.

(B) A licensee does not breach any duty or obligation to a seller with whom the licensee has an agency relationship by showing alternative properties to a prospective purchaser or by acting as an agent or subagent for other sellers.

(C) Nothing in this section shall be construed as permitting a licensee to perform any act or service that constitutes the practice of law.

**Sec. 4735.65.** (A) In representing a purchaser in an agency relationship, a licensee shall ~~represent the interests of the purchaser by doing each of the following:~~

(1) ~~Seeking~~ Seek a property at a price and with purchase or lease terms acceptable to the purchaser. Unless the client so directs, the licensee is not obligated to seek additional purchase or lease possibilities if the purchaser is a party to a contract to purchase property, or has entered into a lease or has extended a letter of intent to lease.

(2) ~~Presenting~~ Within the scope of knowledge required for licensure, answer the purchaser's questions and provide information to the purchaser regarding any offers or counteroffers;

(3) Assist the purchaser in developing, communicating, and presenting offers or counteroffers;

(4) Present any offer to purchase or lease to the seller or the seller's agent in a timely manner, even if the property is subject to a contract of sale, lease, or letter of intent to lease, and accept delivery of and present any counteroffers to the purchaser in a timely manner;

(5) Within the scope of knowledge required for licensure, answer the purchaser's questions regarding the steps the purchaser must take to fulfill the terms of any contract.

(B) A licensee does not breach any duty or obligation to the purchaser by showing the same properties to other purchasers or by acting as an agent or



subagent for other purchasers, or as an agent or subagent for sellers, except that any dual agency relationship must be disclosed to a client pursuant to section 4735.71 of the Revised Code.

(C) Nothing in this section shall be construed as permitting a licensee to perform any act or service that constitutes the practice of law.

Sec. 4735.75. (A) A broker who has the exclusive authority to represent a client under a written exclusive agency agreement, exclusive right to sell agreement, or exclusive purchaser agency agreement may authorize other licensees to negotiate directly with that client. The authorization shall be in writing and the broker shall comply with the requirements of section 4735.621 of the Revised Code.

(B) A licensee who negotiates directly with a seller, purchaser, lessor, or tenant pursuant to a written authorization as described in division (A) of this section does not violate division (A)(19) of section 4735.18 of the Revised Code and negotiations conducted by a licensee pursuant to the authorization shall not create or imply an agency relationship between that licensee and the client of that exclusive broker.

(C) As used in this section and division (A)(19) of section 4735.18 of the Revised Code, "negotiate" means any the following:

- (1) Delivering or communicating an offer, counteroffer, or proposal;
- (2) Discussing or reviewing the terms of any offer, counteroffer, or proposal;
- (3) Facilitating communication regarding an offer, counteroffer, or proposal and preparing any response as directed."

In line 1 of the title, after "4513.61," insert "4735.01, 4735.16, 4735.18, 4735.51, 4735.63, 4735.65,"

In line 2 of the title, after "4738.16" insert "and to enact sections 4735.621 and 4735.75"

In line 6 of the title, delete "and"

In line 8 of the title, after "owners" insert ", to add definitions to real estate broker law and to expand duties of licensees"

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson

Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 150**, pass?"

Senator Stivers moved to amend as follows:

In lines 9 and 250, delete "4513.61,"

Delete lines 11 through 88

In line 1 of the title, delete "4513.61,"

In line 3 of the title, delete the comma and insert "and"

In line 6 of the title, delete everything after "titles"

Delete line 7 of the title

In line 8 of the title, delete everything before the period

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wilson	Zurz	Harris-32.

Senator Wachtmann voted in the negative-1.

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 150**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman

Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

The title was agreed to.

Senator Jacobson moved that the vote, whereby **Sub. H. B. No. 137** - Representative Gilb et al., was passed, be now reconsidered.

The question being, "Shall the motion be agreed to?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

The motion was agreed to.

The question being, "Shall the section, Section 7, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 30, nays 3, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fingerhut	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller R	Mumper	Niehaus
Padgett	Roberts	Schuler	Schuring
Spada	Stivers	Wachtmann	Wilson
Zurz			Harris-30.

Senators Fedor, Miller D, and Prentiss voted in the negative-3.

So the section, Section 7, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the bill pass as an emergency measure?"

The yeas and nays were taken and resulted - yeas 30, nays 3, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fingerhut	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller R	Mumper	Niehaus
Padgett	Roberts	Schuler	Schuring
Spada	Stivers	Wachtmann	Wilson
Zurz			Harris-30.

Senators Fedor, Miller D, and Prentiss voted in the negative-3.

So the bill having received the required constitutional majority passed as an emergency measure.

The question being, "Shall the title be agreed to?"

The title was agreed to.

**Sub. H. B. No. 184**-Representatives Faber, Taylor, Willamowski, Wagner, Seaver, Fessler, Hoops, Webster, Flowers, Reinhard, Collier, Gibbs, Martin, Hagan, Seitz, Peterson, Reidelbach, Schlichter, Aslanides, Blasdel, Bulp, Buehrer, Calvert, Combs, Daniels, DeWine, D. Evans, Garrison, Gilb, Hood, Hughes, Latta, Law, Oelslager, T. Patton, Raga, Schaffer, Schneider, Setzer, G. Smith, Uecker, Walcher Senator Carey.

To amend section 3314.03 and to enact section 3313.801 of the Revised Code to require school districts and community schools that receive donated copies of the mottoes of the United States of America or the State of Ohio to display the mottoes in school buildings, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 184**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz

Harris-33.

So the bill passed.

Senator Padgett moved to amend the title as follows:

Add the names: "Amstutz, Austria, Clancy, Grendell, Hottinger, Padgett, Jordan."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Senator Jacobson moved that the Senate revert to the Fourth Order of Business, Reports of Conference Committees.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

### REPORTS OF CONFERENCE COMMITTEES

Senator Jacobson moved that the report of the Committee of Conference on **Sub. S. B. No. 185** - Senator Padgett et al., be brought up for immediate consideration pursuant to Joint Rule No. 20.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Padgett submitted the following report:

The Committee of Conference to which the matters of difference between the two houses were referred on Sub. S.B. 185, Senator Padgett - et al., having had the same under consideration, recommends to the respective houses as follows:

The bill as passed by the Senate with the following amendments:

Delete lines 1 through 2287 and insert:

"To amend sections 109.572, 1321.57, 1322.02, 1322.03, 1322.031, 1322.04, 1322.041, 1322.051, 1322.06, 1322.061, 1322.062, 1322.07, 1322.10, 1322.11, 1322.99, 1343.011, 1345.01, 1345.02, 1345.03, 1345.05, 1345.07, 1345.09, 1349.25, 1349.27, 1349.31, 3953.23, 4735.05, 4763.03, 4763.05, 4763.06, 4763.12, 4763.13, and 4763.99 and to enact sections 1321.541, 1322.063, 1322.064, 1322.074, 1322.075, 1322.081, 1345.031, 1345.091, 1349.271, 1349.41, 1349.43, 1349.44, 1349.71, 1349.72, 3953.30, 3953.32, 3953.33, 3953.35, and 4763.19 of the Revised Code to modify the application of

the Consumer Sales Practices Act and the Consumer Credit Mortgage Loan Law; to generally prohibit the appraisal of real estate for a mortgage loan without state certification or licensure; to require that a national criminal background check be conducted on all applicants for a mortgage broker certificate of registration, loan officer license, or real estate appraiser certificate or license; to modify the Mortgage Broker/Loan Officer Law with respect to disclosure of information, duties and standards of care, prohibited acts, record keeping, educational requirements, and pre-licensure examination; to modify the Title Insurance Agent Law; to establish the Consumer Education Finance Board; and to make other changes relative to mortgage lending.

**Section 1 .** That sections 109.572, 1321.57, 1322.02, 1322.03, 1322.031, 1322.04, 1322.041, 1322.051, 1322.06, 1322.061, 1322.062, 1322.07, 1322.10, 1322.11, 1322.99, 1343.011, 1345.01, 1345.02, 1345.03, 1345.05, 1345.07, 1345.09, 1349.25, 1349.27, 1349.31, 3953.23, 4735.05, 4763.03, 4763.05, 4763.06, 4763.12, 4763.13, and 4763.99 be amended and sections 1321.541, 1322.063, 1322.064, 1322.074, 1322.075, 1322.081, 1345.031, 1345.091, 1349.271, 1349.41, 1349.43, 1349.44, 1349.71, 1349.72, 3953.30, 3953.32, 3953.33, 3953.35, and 4763.19 of the Revised Code be enacted to read as follows:

**Sec. 109.572 .** (A)(1) Upon receipt of a request pursuant to section 121.08, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013, or 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, 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 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(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 listed in division (A)(1)(a) of this section.

(2) On receipt of a request pursuant to section 5123.081 of the Revised Code with respect to an applicant for employment in any position with the department of mental retardation and developmental disabilities, pursuant to section 5126.28 of the Revised Code with respect to an applicant for employment in any position with a county board of mental retardation and developmental disabilities, or pursuant to section 5126.281 of the Revised Code with respect to an applicant for employment in a direct services position with an entity contracting with a county board for employment, 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. The superintendent shall conduct the 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 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, 2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, or 3716.11 of the Revised Code;

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

(3) On receipt of a request pursuant to section 173.27, 173.394, 3712.09, 3721.121, or 3722.151 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 with respect to any person who has applied for employment in a position for which a criminal records check is required by those sections. The superintendent shall conduct the 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, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22,

2925.23, or 3716.11 of the Revised Code;

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

(4) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with a home health agency as a person responsible for the care, custody, or control of a child, 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. The superintendent shall conduct the 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, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 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 or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

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

(5) On receipt of a request pursuant to section 5111.95 or 5111.96 of the Revised Code with respect to an applicant for employment with a waiver agency participating in a department of job and family services administered home and community-based waiver program or an independent provider participating in a department administered home and community-based waiver program in a position that involves providing home and community-based waiver services to consumers with disabilities, 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. The superintendent shall conduct the 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, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06,



2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(5)(a) of this section.

(6) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with a home health agency in a position that involves providing direct care to an older adult, 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. The superintendent shall conduct the 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, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

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

(7) When conducting a criminal records check upon a request pursuant to section 3319.39 of the Revised Code for an applicant who is a teacher, in addition to the determination made under division (A)(1) of this section, the superintendent shall 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 offense specified in section 3319.31 of the Revised Code.

(8) On a request pursuant to section 2151.86 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, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(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 listed in division (A)(8)(a) of this section.

(9) When conducting a criminal records check on a request pursuant to section 5104.013 of the Revised Code for a person who is an owner, licensee, or administrator of a child day-care center or type A family day-care home or an authorized provider of a certified type B family day-care home, the superintendent, in addition to the determination made under division (A)(1) of this section, shall determine whether any information exists that indicates that the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2921.11, 2921.13, or 2923.01 of the Revised Code, a violation of section 2923.02 or 2923.03 of the Revised Code that relates to a crime specified in this division or division (A)(1)(a) of this section, or a second violation of section 4511.19 of the Revised Code within five years of the date of application for licensure or certification.

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

(10) On receipt of a request for a criminal records check from an

individual pursuant to section 4749.03 or 4749.06 of the Revised Code, accompanied by a completed copy of the form prescribed in division (C)(1) of this section and a set of fingerprint impressions obtained in a 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 indicating that the person who is the subject of the request has been convicted of or pleaded guilty to a felony in this state or in any other state. If the individual indicates that a firearm will be carried in the course of business, the superintendent shall require information from the federal bureau of investigation as described in division (B)(2) of this section. The superintendent shall report the findings of the criminal records check and any information the federal bureau of investigation provides to the director of public safety.

(11) On receipt of a request pursuant to section 1322.03, 1322.031, or 4763.05 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 with respect to any person who has applied for a license, permit, or certification from the department of commerce or a division in the department. The superintendent shall conduct the 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 violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 2925.03 of the Revised Code; any other criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of the Revised Code; or any existing or former law of this state, any other state, or the United States that is substantially equivalent to those offenses.

(12) Not later than thirty days after the date the superintendent receives the request, completed form, and fingerprint impressions, the superintendent shall send the person, board, or entity that made the request any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exists with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), ~~(10)~~, or (11) of this section, as appropriate. The superintendent shall send the person, board, or entity that made the request a copy of the list of offenses specified in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), ~~(10)~~, or (11) of this section, as appropriate. If the request was made under section 3701.881 of the Revised Code with regard to an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult, the superintendent shall provide a list

of the offenses specified in divisions (A)(4) and (6) of this section.

(B) The superintendent shall conduct any criminal records check requested under section 121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as follows:

(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the request, including any relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the request and shall review or cause to be reviewed any information the superintendent receives from that bureau.

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

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is required by section 121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is required by section 121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any person for whom a records check is required by any of those sections shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check requested under section 121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The person making a criminal records request under section 121.08, 173.27, 173.394, 1322.03, 1322.031, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code shall pay the fee prescribed pursuant to this division. A person making a request under section 3701.881 of the Revised Code for a criminal records check for an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult shall pay one fee for the request.

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

(D) A determination whether any information exists that indicates that a person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or (b), (A)(5)(a) or (b), (A)(6) (a) or (b), (A)(7) ~~(a) or (b)~~, (A)(8)(a) or (b), ~~or~~ (A)(9)(a) or (b), or (A)(11) of this section that is made by the superintendent with respect to information considered in a criminal records check in accordance with this section is valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent makes the determination. During the period in which the determination in regard to a person is valid, if another request under this section is made for a criminal records check for that person, the superintendent shall provide the information that is the basis for the superintendent's initial determination at a lower fee than the fee prescribed for the initial criminal records check.

(E) As used in this section:

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

(2) "Home and community-based waiver services" and "waiver agency" have the same meanings as in section 5111.95 of the Revised Code.

(3) "Independent provider" has the same meaning as in section 5111.96 of the Revised Code.

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

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

**Sec. 1321.541 .** (A) The attorney general may directly bring an action to enjoin a violation of sections 1321.51 to 1321.60 of the Revised Code with the same rights, privileges, and powers as those described in section 1345.06 of the Revised Code. The prosecuting attorney of the county in which the action may be brought may bring an action to enjoin a violation of sections 1321.51 to 1321.60 of the Revised Code only if the prosecuting attorney first presents any evidence of the violation to the attorney general and, within a reasonable period of time, the attorney general has not agreed to bring the action.

(B)(1) The prosecuting attorney of the county in which an alleged offense may be prosecuted may initiate criminal proceedings under sections 1321.51 to 1321.60 of the Revised Code.

(2) In order to initiate criminal proceedings under sections 1321.51 to 1321.60 of the Revised Code, the attorney general shall first present any evidence of criminal violations to the prosecuting attorney of the county in which the alleged offense may be prosecuted. If, within a reasonable period of time, the prosecuting attorney has not agreed to prosecute the violations, the attorney general may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries.

(C) These powers of the attorney general shall be in addition to any other applicable powers of the attorney general.

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

(B) For purposes of computation of time on interest-bearing and precomputed loans, including, but not limited to, the calculation of interest, a month is considered one-twelfth of a year, and a day is considered one three hundred sixty-fifth of a year when calculation is made for a fraction of a month. A year is as defined in section 1.44 of the Revised Code. A month is that period described in section 1.45 of the Revised Code. Alternatively, a registrant may consider a day as one three hundred sixtieth of a year and each month as having thirty days.

(C) With respect to interest-bearing loans:

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

(b) As an alternative to the method of computing interest set forth in division (C)(1)(a) of this section, a registrant may charge and collect interest for the first installment period based on elapsed time from the date of the loan to the first scheduled payment due date, and for each succeeding installment period from the scheduled payment due date to the next scheduled payment due date,

regardless of the date or dates the payments are actually made.

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

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

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

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

(D) With respect to precomputed loans:

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

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

(3) When any loan contract is paid in full by cash, renewal, refinancing, or a new loan, one month or more before the final installment due date, the registrant shall refund, or credit the borrower with, the total of the applicable charges for all fully unexpired installment periods, as originally scheduled or as deferred, that follow the day of prepayment. If the prepayment is made other than on a scheduled installment due date, the nearest scheduled installment due date shall be used in such computation. If the prepayment occurs prior to the first installment due date, the registrant may retain one-thirtieth of the applicable charge for a first installment period of one month for each day from date of loan to date of prepayment, and shall refund, or credit the borrower with, the balance of the total interest contracted for. If the maturity of the loan is accelerated for

any reason and judgment is entered, the registrant shall credit the borrower with the same refund as if prepayment in full had been made on the date the judgment is entered.

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

(E) A registrant, at the request of the borrower, may obtain, on one or more borrowers, credit life insurance, credit accident and health insurance, and unemployment insurance. The premium or identifiable charge for the insurance may be included in the principal amount of the loan and may not exceed the premium rate filed by the insurer with the superintendent of insurance and not disapproved by the superintendent. If a registrant obtains the insurance at the request of the borrower, the borrower shall have the right to cancel the insurance for a period of twenty-five days after the loan is made. If the borrower chooses to cancel the insurance, the borrower shall give the registrant written notice of this choice and shall return all of the policies or certificates of insurance or notices of proposed insurance to the registrant during such period, and the full premium or identifiable charge for the insurance shall be refunded to the borrower by the registrant. If the borrower requests, in the notice to cancel the insurance, that this refund be applied to reduce the balance of a precomputed loan, the registrant shall credit the amount of the refund plus the amount of interest applicable to the refund to the loan balance.

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

(F) A registrant may require the borrower to provide insurance or a loss payable endorsement covering reasonable risks of loss, damage, and destruction of property used as security for the loan and with the consent of the borrower such insurance may cover property other than that which is security for the loan. The amount and term of required property insurance shall be reasonable in relation to the amount and term of the loan contract and the type and value of the



security, and the insurance shall be procured in accordance with the insurance laws of this state. The purchase of this insurance through the registrant or an agent or broker designated by the registrant shall not be a condition precedent to the granting of the loan. If the borrower purchases the insurance from or through the registrant or from another source, the premium may be included in the principal amount of the loan.

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

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

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

(b) A prepayment penalty.

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

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

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

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

(3) Division (G) of this section is not a limitation on discount points or other charges for purposes of section 501(b)(4) of the "Depository Institutions Deregulation and Monetary Control Act of 1980," 94 Stat. 161, 12 U.S.C.A.

1735f-7 note.

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

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

(b) With respect to a loan secured by an interest in real estate, the following closing costs, if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this section:

(i) Fees or premiums for title examination, abstract of title, title insurance, surveys, title endorsements, title binders, title commitments, home inspections, or pest inspections; settlement or closing costs; courier fees; and any federally mandated flood plain certification fee;

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

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

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

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

(J)(1) In addition to points authorized under division (G) of this section, a registrant may charge and receive the following:

(a) With respect to secured loans: if the principal amount of the loan is less than five hundred dollars, loan origination charges not exceeding fifteen dollars; if the principal amount of the loan is at least five hundred dollars but less than one thousand dollars, loan origination charges not exceeding thirty dollars; if the principal amount of the loan is at least one thousand dollars but less than two thousand dollars, loan origination charges not exceeding one hundred dollars; if the principal amount of the loan is at least two thousand dollars but less than five thousand dollars, loan origination charges not exceeding two hundred dollars; and if the principal amount of the loan is at least five thousand dollars, loan origination charges not exceeding the greater of two hundred fifty dollars or one per cent of the principal amount of the loan.

(b) With respect to unsecured loans: if the principal amount of the loan is less than five hundred dollars, loan origination charges not exceeding fifteen dollars; if the principal amount of the loan is at least five hundred dollars but less than one thousand dollars, loan origination charges not exceeding thirty dollars; if the principal amount of the loan is at least one thousand dollars but less than five thousand dollars, loan origination charges not exceeding one hundred dollars; and if the principal amount of the loan is at least five thousand dollars, loan origination charges not exceeding the greater of two hundred fifty dollars or one per cent of the principal amount of the loan.

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

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

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

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

**Sec. 1322.02 .** (A)(1) No person, on the person's own behalf or on behalf of any other person, shall act as a mortgage broker without first having obtained a certificate of registration from the superintendent of financial institutions for every office to be maintained by the person for the transaction of business as a

mortgage broker in this state. A registrant shall maintain an office location in this state for the transaction of business as a mortgage broker in this state.

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

(B) No person, on the person's own behalf or on behalf of any other person, shall act as a loan officer without first having obtained a license from the superintendent. A loan officer shall not be employed by more than one mortgage broker at any one time.

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

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

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

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

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

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

(f) A person registered under sections 1321.51 to 1321.60 of the Revised Code, provided that not more than five per cent of the person's mortgage loans

constitute table-funding mortgage loans or warehouse-lending mortgage loans. Division (C)(1)(f) of this section does not include any person that is also registered or licensed under sections 1322.01 to 1322.12 of the Revised Code.

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

(i) The person has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program. Division (C) (1) (g) (i) of this section includes a person that has been directly approved by the United States department of housing and urban development as a nonsupervised mortgagee with participation in the direct endorsement program and that makes loans in excess of the applicable loan limit set by the federal national mortgage association, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the United States department of housing and urban development. Division (C)(1)(g)(i) of this section does not include a mortgagee approved as a loan correspondent.

(ii) The person has been directly approved by the federal national mortgage association as a seller/servicer. Division (C) (1) (g) (ii) of this section includes a person that has been directly approved by the federal national mortgage association as a seller/servicer and that makes loans in excess of the applicable loan limit set by the federal national mortgage association, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the federal national mortgage association.

(iii) The person has been directly approved by the federal home loan mortgage corporation as a seller/servicer. Division (C) (1) (g) (iii) of this section includes a person that has been directly approved by the federal home loan mortgage corporation as a seller/servicer and that makes loans in excess of the applicable loan limit set by the federal home loan mortgage corporation, provided that the loans in all respects, except loan amounts, comply with the underwriting and documentation requirements of the federal home loan mortgage corporation.

(iv) The person has been directly approved by the United States department of veterans affairs as a nonsupervised automatic lender. Division (C)(1)(g)(iv) of this section does not include a person directly approved by the United States department of veterans affairs as a nonsupervised lender, an agent of a nonsupervised automatic lender, or an agent of a nonsupervised lender.

(h) A person created solely for the purpose of securitizing loans secured by an interest in real estate, provided the person does not service the loans. For purposes of division (C)(1)(h) of this section, "securitizing" means the packaging and sale of mortgage loans as a unit for sale as investment securities, but only to the extent of those activities.

(2) Any individual who is employed by a person exempt from sections 1322.01 to 1322.12 of the Revised Code is also exempt from those sections to the extent the individual is acting within the scope of the individual's employment and within the scope of the exempt person's charter, license, authority, approval, or certificate.

**Sec. 1322.03 .** (A) An application for a certificate of registration as a mortgage broker shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable application fee of three hundred fifty dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code; however, an applicant that is registered under sections 1321.51 to 1321.60 of the Revised Code shall not be required to pay an application fee. The application shall provide all of the following:

(1) The location or locations where the business is to be transacted and whether any location is a residence. If any location where the business is to be transacted is a residence, the application shall be accompanied by a certified copy of a zoning permit authorizing the use of the residence for commercial purposes, or shall be accompanied by a written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision. The application also shall be accompanied by a photograph of each location at which the business will be transacted.

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

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

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

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

(3) If the applicant is a partnership, corporation, limited liability company, or any other business entity or association, the applicant shall designate an employee or owner of the applicant as the applicant's operations manager. While acting as the operations manager, the employee or owner shall not be employed by any other mortgage broker.

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

possesses at least three years of other experience related specifically to the business of mortgage loans that the superintendent determines meets the requirements of division (A)(4) of this section;

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

(a) At least twenty-four hours of live classroom instruction in a course or program of study approved by the superintendent that consists of at least all of the following:

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

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

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

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

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

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

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

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

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

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

The evidence submitted by the applicant pursuant to division (A)(5) of this section may be in the form of transcripts or a statement indicating that the applicant has, and will maintain, transcripts at the applicant's place of business for a period of five years for inspection by the superintendent at the superintendent's request.

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

(7) In the case of a foreign business entity, evidence that it maintains

a license or registration pursuant to Chapter 1703., 1705., 1775., 1777., 1782., or 1783. of the Revised Code to transact business in this state;

~~(7)~~ (8) A statement as to whether the applicant or, to the best of the applicant's knowledge, any shareholder, member, partner, operations manager, or employee of the applicant has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities;

~~(8)~~ (9) A statement as to whether the applicant or, to the best of the applicant's knowledge, any shareholder, member, partner, operations manager, or employee of the applicant has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty;

~~(9)~~ (10) Evidence that the applicant's operations manager has successfully completed the examination required under division (A) of section 1322.051 of the Revised Code;

~~(10)~~ (11) Any further information that the superintendent requires.

(B) Upon the filing of the application and payment of the application fee, the superintendent of financial institutions shall investigate the applicant as set forth in division (B) of this section . ~~The investigation shall include~~

(1) The superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints of the applicant and in accordance with division (A)(11) of section 109.572 of the Revised Code. Notwithstanding division (J) of section 121.08 of the Revised Code, the superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

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

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

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

(D) If an application for a certificate of registration does not contain all



of the information required under division (A) of this section, and if that information is not submitted to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn.

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

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

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

(1) The name and address of the applicant;

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

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

(4) For loan officer applications submitted on or after January 1, 2007, proof, as determined by the superintendent, that the applicant has successfully completed at least twenty-four hours of live classroom instruction in a course or program of study approved by the superintendent that consists of at least all of the following:

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

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

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

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

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

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

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

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

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

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

(5) Any further information that the superintendent requires.

(B) Upon the filing of the application and payment of the application fee, the superintendent of financial institutions shall investigate the applicant as set forth in division (B) of this section . ~~The investigation shall include~~

(1) The superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints of the applicant and in accordance with division (A)(11) of section 109.572 of the Revised Code. Notwithstanding division (J) of section 121.08 of the Revised Code, the superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

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

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

(C) ~~At~~ The superintendent shall pay all funds advanced and application and renewal fees and penalties paid to the superintendent under receives pursuant to this section and section 1322.041 of the Revised Code shall be paid by the superintendent to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

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

(E)(1) The business of a loan officer shall principally be transacted at an office of the employing mortgage broker, which office is registered in accordance with division (A) of section 1322.02 of the Revised Code. Each original license shall be deposited with and maintained by the employing mortgage broker at the mortgage broker's main office. A copy of the license shall be maintained and displayed at the office where the loan officer principally transacts business.

(2) If a loan officer's employment is terminated, the mortgage broker shall return the original license to the superintendent within five business days after the termination. The licensee may request the transfer of the license to another mortgage broker by submitting a relocation application, along with a fifteen dollar fee, to the superintendent or may request the superintendent in writing to hold the license in escrow for a period not to exceed one year. Any licensee whose license is held in escrow shall cease activity as a loan officer.

A mortgage broker may employ a loan officer on a temporary basis pending the transfer of the loan officer's license to the mortgage broker, if the mortgage broker receives written confirmation from the superintendent that the loan officer is licensed under sections 1322.01 to 1322.12 of the Revised Code.

(F) A license, or the authority granted under ~~such a~~ that license, is not assignable and cannot be franchised by contract or any other means.

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

(1) Except as otherwise provided in division (A) of section 1322.03 of the ~~Revised~~ Revised Code, the application is accompanied by the application fee. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the registrant by certified mail, return receipt requested, that the certificate of registration issued in reliance on the check or other draft instrument will be canceled unless the registrant, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the registrant does not submit the application fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the certificate of registration shall be canceled immediately without a hearing , and the registrant shall cease activity as a mortgage broker.

(2) If the application is for a location that is a residence, that the applicant has obtained a valid zoning permit authorizing the use of the residence for commercial purposes, or has obtained a valid written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision. The application also is

accompanied by a photograph of each location at which the mortgage broker's business will be transacted.

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

(4) The applicant maintains all licenses and registrations required by the secretary of state.

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

(6) The applicant complies with sections 1322.01 to 1322.12 of the Revised Code.

(7) Neither the applicant nor any shareholder, member, partner, operations manager, or employee of the applicant has pleaded guilty to or been convicted of any criminal offense described in division (A) ~~(7)~~ (8) of section 1322.03 of the Revised Code ; or any violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to a criminal offense described in that division. However , if the applicant or any of those other persons has pleaded guilty to or been convicted of any such an offense other than theft , the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the conviction show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will commit such an offense again.

(8) Neither the applicant nor any shareholder, member, partner, operations manager, or employee of the applicant has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or, if the applicant or any of those other persons has been subject to such a judgment, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the judgment show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will be subject to such a judgment again.

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

(10) The applicant's financial responsibility, experience, character, and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes

of sections 1322.01 to 1322.12 of the Revised Code.

For purposes of determining whether an applicant that is a partnership, corporation, or other business entity or association has met the conditions set forth in divisions (A)(7), (A)(8), and (A)(10) of this section, the superintendent shall determine which partners, shareholders, or persons named in the application pursuant to division (A)(2) of section 1322.03 of the Revised Code must meet the conditions set forth in divisions (A)(7), (A)(8), and (A)(10) of this section. This determination shall be based on the extent and nature of the partner's, shareholder's, or person's ownership interest in the partnership, corporation, or other business entity or association that is the applicant.

(B) The certificate of registration issued pursuant to division (A) of this section may be renewed annually on or before the thirtieth day of April if the superintendent finds that all of the following conditions are met:

(1) The renewal application is accompanied by a nonrefundable renewal fee of three hundred fifty dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code; however, an applicant that is registered under sections 1321.51 to 1321.60 of the Revised Code shall not be required to pay a renewal fee. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the registrant by certified mail, return receipt requested, that the certificate of registration renewed in reliance on the check or other draft instrument will be canceled unless the registrant, within thirty days after receipt of the notice, submits the renewal fee and a one-hundred-dollar penalty to the superintendent. If the registrant does not submit the renewal fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the certificate of registration shall be canceled immediately without a hearing and the registrant shall cease activity as a mortgage broker.

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

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

(4) The applicant's certificate of registration is not subject to an order of suspension or revocation by the superintendent.

(C)(1) Subject to division (C)(2) of this section, if a renewal fee is received by the superintendent after the thirtieth day of April, the certificate of registration shall not be considered renewed, and the applicant shall cease activity as a mortgage broker and apply for a certificate of registration as a mortgage broker.

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

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

(1) Designate another person as the operations manager;

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

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

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

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

(2) The applicant complies with sections 1322.01 to 1322.12 of the Revised Code.

(3) The applicant has not been convicted of or pleaded guilty to any criminal offense described in division (A)(2) of section 1322.031 of the Revised Code  ~~, or~~ and the applicant has not pleaded guilty to or been convicted of a violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to a criminal offense described in that division. However , if the applicant has been convicted of or pleaded guilty to any such an offense other than theft , the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.

(4) The applicant has not been subject to an adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or, if the applicant has been subject to such a judgment, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the judgment show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will be subject to such a judgment again.

(5) The applicant successfully completed the examination required under division (B) of section 1322.051 of the Revised Code and the education requirements set forth in division (A)(4) of section 1322.031 of the Revised Code.

(6) The applicant's character and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1322.01 to 1322.12 of the Revised Code.

(B) The license issued under division (A) of this section may be renewed annually on or before the thirtieth day of April if the superintendent finds that all of the following conditions are met:

(1) The renewal application is accompanied by a nonrefundable renewal fee of one hundred dollars. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the licensee by certified mail, return receipt requested, that the license renewed in reliance on the check or other draft instrument will be canceled unless the licensee, within thirty days after receipt of the notice, submits the renewal fee and a one-hundred-dollar penalty to the superintendent. If the licensee does not submit the renewal fee and penalty within that time period, or if any check or other draft instrument used to pay the fee or penalty is returned to the superintendent for insufficient funds, the license shall be canceled immediately without a hearing, and the licensee shall cease activity as a loan officer.

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

(3) The applicant meets the conditions set forth in divisions (A)(2) to ~~(5)~~ (6) of this section.

(4) The applicant's license is not subject to an order of suspension or revocation by the superintendent.

(C)(1) Subject to division (C)(2) of this section, if a license renewal application or renewal fee is received by the superintendent after the thirtieth day of April, the license shall not be considered renewed, and the applicant shall cease activity as a loan officer.

(2) Division (C)(1) of this section shall not apply if the applicant, no later

than the thirty-first day of May, submits the renewal application and fee and a one-hundred-dollar penalty to the superintendent.

**Sec. 1322.051 .** (A) Each person designated under division (A)(3) of section 1322.03 of the Revised Code to act as operations manager for a mortgage broker business shall submit to an examination approved by the superintendent of financial institutions.

(B) Each licensee, ~~within ninety days after the original issuance of the applicant for a loan officer license ; shall successfully complete~~ submit to an examination approved by the superintendent. ~~Failure to comply with this division results in the termination of the license by operation of law.~~

**Sec. 1322.06 .** (A) As often as the superintendent of financial institutions considers it necessary, the superintendent may examine the registrant's records pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code.

(B) A registrant shall maintain records pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code , including copies of all mortgage loan origination disclosure statements prepared in accordance with section 1322.062 of the Revised Code, for four years. No registrant shall fail to comply with this division.

**Sec. 1322.061 .** (A)(1) The following information is ~~privileged and~~ confidential:

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

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

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

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

(C) This section does not prevent the division of financial institutions from releasing to or exchanging with other financial institution regulatory authorities information relating to registrants and licensees. For this purpose, a



"financial institution regulatory authority" includes a regulator of a business activity in which a registrant or licensee is engaged, or has applied to engage in, to the extent that the regulator has jurisdiction over a registrant or licensee engaged in that business activity. A registrant or licensee is engaged in a business activity, and a regulator of that business activity has jurisdiction over the registrant or licensee, whether the registrant or licensee conducts the activity directly or a subsidiary or affiliate of the registrant or licensee conducts the activity.

(D) This section does not prevent the division from releasing information relating to registrants and licensees to the attorney general ~~for purposes relating to the attorney general's administration of Chapter 1345. of the Revised Code~~ , to the superintendent of real estate and professional licensing for purposes relating to the administration of Chapters 4735. and 4763. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, or to local law enforcement agencies and local prosecutors . Information the division releases ~~to the attorney general~~ pursuant to this section remains ~~privileged and confidential~~ , ~~and the attorney general may not disclose the information or introduce the information into evidence unless the superintendent authorizes the disclosure or introduction into evidence in connection with the attorney general's administration of Chapter 1345. of the Revised Code~~ .

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

- (a) The name, address, and telephone number of the buyer;
- (b) The typewritten name of the loan officer and the number designated on the loan officer's license;
- (c) The street address, telephone number, and facsimile number of the registrant and the number designated on the registrant's certificate of registration;
- (d) The signature of the loan officer or registrant;
- (e) A statement indicating whether the buyer is to pay for the services of a bona fide third party if the registrant is unable to assist the buyer in obtaining a mortgage;
- (f) A statement that describes the method by which the fee to be paid by the buyer to the registrant will be calculated and a good faith estimate of the total amount of that fee ;
- (g) A statement that the lender may pay compensation to the registrant;
- (h) A description of all the services the registrant has agreed to perform for the buyer;
- (i) A statement that the buyer has not entered into an exclusive agreement for brokerage services ;

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

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

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

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

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

If the loan officer or registrant uses an automated valuation model to determine an appraisal report, the registrant also shall include a copy of the automated valuation model report.

(D) A registrant shall deliver to the buyer, at the same time that the registrant delivers the mortgage loan origination disclosure statement pursuant to division (A) of this section, a good faith estimate statement that discloses the amount of or range of charges for the specific settlement services the buyer is likely to incur in connection with the mortgage loan. The good faith estimate statement shall meet the requirements of the "Real Estate Settlement Procedures Act," 88 Stat. 1724 (1974), 12 U.S.C.A. 2601 et seq., and shall include the following underlined notice in at least ten point type, new roman style:

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

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

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

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

Notice to borrower(s): Signing this document does not obligate you to obtain a mortgage loan through this mortgage originator nor is this a loan commitment or an approval; nor is your interest rate locked at this time unless otherwise disclosed on a separate Rate Lock Disclosure Form. Do not sign this document until you have read and understood the information in it. You will receive a re-disclosure of any increase in interest rate or if the total sum of disclosed settlement/closing costs increases by 10% or more of the original estimate. Should any such increase occur; mandatory re-disclosure must occur prior to the settlement or close of escrow."

(E) No registrant shall fail to comply with this section.

Sec. 1322.063 . (A) In addition to the disclosures required under section 1322.062 of the Revised Code, a registrant shall, not later than twenty-four hours before a loan is closed, deliver to the buyer a written disclosure that includes the following:

(1) A statement indicating whether property taxes will be escrowed;

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

(B) No registrant shall fail to comply with this section.

Sec. 1322.064 . (A) No registrant or licensee shall fail to do either of the following:

(1) Timely inform the buyer of any material change in the terms of the loan. For purposes of division (A)(1) of this section, "material change" means the following:

(a) A change in the type of loan being offered, such as a fixed or variable rate loan or a loan with a balloon payment;

(b) A change in the term of the loan, as reflected in the number of monthly payments due before a final payment is scheduled to be made;

(c) A change in the interest rate of more than 0.15%;

(d) A change in the regular monthly payment of principal and interest of more than five per cent;

(e) A change regarding the escrow of taxes or insurance;

(f) A change regarding the payment of private mortgage insurance.

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

(B) The disclosures required by this section shall be deemed timely if the registrant provides the buyer with the revised information not later than

twenty-four hours after the change occurs, or twenty-four hours before the loan is closed, whichever is earlier.

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

**Sec. 1322.07 .** No mortgage broker, registrant, licensee, or applicant for a certificate of registration or license under sections 1322.01 to 1322.12 of the Revised Code shall do any of the following:

(A) Obtain a certificate of registration or license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application;

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

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

(D) Fail to notify the division of financial institutions within thirty days after the registrant, licensee, or applicant, in a court of competent jurisdiction of this state or any other state, is convicted of or pleads guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities;

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

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

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

(H) Promise to refinance a loan in the future at a lower interest rate or

with more favorable terms, unless the promise is set forth in writing and is initialed by the buyer .

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

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

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

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

(C) Division (B) of this section shall not apply to any registrant, or any member of the registrant's immediate family, who, on the effective date of this section, owns or controls a majority interest in an appraisal company. However, such ownership or control is subject to the following conditions:

(1) The registrant and members of the registrant's immediate family shall not increase their interest in the company.

(2) The interest is not transferable to a member of the registrant's immediate family.

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

**Sec. 1322.075 .** (A) No registrant or licensee or person required to be registered or licensed under this chapter shall refer a buyer to any settlement service provider, including any title insurance company, without providing the buyer with written notice disclosing all of the following:

(1) Any business relationship that exists between the registrant, licensee, or person required to be registered or licensed under this chapter, and the provider to which the buyer is being referred, and any financial benefit that the registrant, licensee, or person may be provided because of the relationship;

(2) The percentage of ownership interest the registrant, licensee, or person required to be registered or licensed under this chapter has in the provider to which the buyer is being referred;

(3) The estimated charge or range of charges for the settlement service

listed:

(4) The following statement, printed in boldface type of the minimum size of sixteen points: "There are frequently other settlement service providers available with similar services. You are free to shop around to determine that you are receiving the best services and the best rate for these services."

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

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

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

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

(D) The registrant, licensee, or person required to be registered or licensed under this chapter shall retain proof that the buyer received the written disclosures required by division (A) of this section for four years.

**Sec. 1322.081 . (A) A registrant, licensee, and any person required to be registered or licensed under this chapter, in addition to duties imposed by other statutes or common law, shall do all of the following:**

(1) Safeguard and account for any money handled for the borrower;

(2) Follow reasonable and lawful instructions from the borrower;

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

(4) Act in good faith and with fair dealing in any transaction, practice, or course of business in connection with the brokering or originating of any mortgage loan;

(5) Make reasonable efforts to secure a mortgage loan, from lenders with whom the registrant, licensee, or person regularly does business, with rates, charges, and repayment terms that are advantageous to the borrower.

(B) Division (A) of this section shall not apply to wholesale lenders. However, wholesale lenders are subject to all other requirements applicable to mortgage brokers and nonbank mortgage lenders. For purposes of this division, "wholesale lender" means a company that has been issued a mortgage broker certificate of registration and that enters into transactions with buyers exclusively through unaffiliated third-party mortgage brokers.

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

(D)(1) A buyer injured by a violation of this section may bring an action for recovery of damages.

(2) Damages awarded under division (D)(1) of this section shall not be less than all compensation paid directly or indirectly to a mortgage broker from any source, plus reasonable attorney's fees and court costs.

(3) The buyer may be awarded punitive damages.

(E) A buyer injured by a violation of this section is precluded from recovering any damages, plus reasonable attorney's fees and costs, if the buyer has also recovered any damages in a cause of action initiated under section 1322.11 of the Revised Code and the recovery of damages for a violation of this section is based on the same acts or circumstances as the basis for recovery of damages in section 1322.11 of the Revised Code.

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

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

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

(b) A conviction of or guilty plea to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities.

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

(a) The seriousness of the violation;

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

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

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

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

(B) The superintendent may investigate alleged violations of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or complaints concerning any such violation. The superintendent may make application to the court of common pleas for an order enjoining any such violation, and, upon a showing by the superintendent that a person has committed or is about to commit such a violation, the court shall grant an injunction, restraining order, or other appropriate relief.

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

(D) If the superintendent determines that a person is engaged in or is believed to be engaged in activities that may constitute a violation of sections 1322.01 to 1322.12 of the Revised Code, the superintendent, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, may issue a cease and desist order. Such an order shall be enforceable in the court of common pleas.

(E) If the superintendent revokes the certificate of registration or license of a registrant or licensee who is convicted of or pleads guilty to a criminal violation of any provision of sections 1322.01 to 1322.12 of the Revised Code or any criminal offense described in division (A)(1)(b) of this section, the revocation shall be permanent.

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

(a) Suspend the certificate of registration or license of a registrant or licensee who is convicted of or pleads guilty to a criminal violation of any provision of sections 1322.01 to 1322.12 of the Revised Code or any criminal offense described in division (A)(1)(b) of this section;

(b) Suspend the certificate of registration of a registrant who violates division (F) of section 1322.05 of the Revised Code;

(c) Suspend the certificate of registration or license of a registrant or licensee who fails to comply with a request made by the superintendent under section 1322.03 or 1322.031 of the Revised Code to inspect qualifying education



transcripts located at the registrant's or licensee's place of business.

(2) The superintendent shall, without a prior hearing, suspend the certificate of registration of a registrant whose operations manager has failed to fulfill the continuing education requirements of section 1322.052 of the Revised Code and suspend the license of a licensee who has failed to fulfill those continuing education requirements. The suspension shall continue until such time as the required continuing education is completed and a fine of five hundred dollars is paid to the treasurer of state to the credit of the consumer finance fund.

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

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

**Sec. 1322.11 .** (A)(1) A buyer injured by a violation of section 1322.02, 1322.062, 1322.063, 1322.064, 1322.07, 1322.071, 1322.08, or 1322.09 of the Revised Code may bring an action for recovery of damages.

(2) Damages awarded under division (A)(1) of this section shall not be less than ~~the amount paid by the buyer to the mortgage broker~~ all compensation paid directly and indirectly to a mortgage broker from any source , plus reasonable attorney's fees and court costs.

(3) The buyer may be awarded punitive damages.

(B)(1) The superintendent of financial institutions ~~, the attorney general,~~ or a buyer may directly bring an action to enjoin a violation of sections 1322.01 to 1322.12 of the Revised Code. The attorney general may directly bring an action to enjoin a violation of sections 1322.01 to 1322.12 of the Revised Code with the same rights, privileges, and powers as those described in section 1345.06 of the Revised Code. The prosecuting attorney of the county in which the action may be brought may bring an action to enjoin a violation of sections 1322.01 to 1322.12 of the Revised Code only if the prosecuting attorney first presents any evidence of the violation to the attorney general and, within a reasonable period of time, the attorney general has not agreed to bring the action.

(2) The superintendent may initiate criminal proceedings under sections 1322.01 to 1322.12 of the Revised Code by presenting any evidence of criminal violation to the prosecuting attorney of the county in which the offense may be prosecuted. If the prosecuting attorney does not prosecute the violations, or at the request of the prosecuting attorney, the superintendent shall present any evidence of criminal violations to the attorney general, who may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries. These powers of the attorney general shall be in addition to any other applicable powers of the attorney

general.

(3) The prosecuting attorney of the county in which an alleged offense may be prosecuted may initiate criminal proceedings under sections 1322.01 to 1322.12 of the Revised Code.

(4) In order to initiate criminal proceedings under sections 1322.01 to 1322.12 of the Revised Code, the attorney general shall first present any evidence of criminal violations to the prosecuting attorney of the county in which the alleged offense may be prosecuted. If, within a reasonable period of time, the prosecuting attorney has not agreed to prosecute the violations, the attorney general may proceed in the prosecution with all the rights, privileges, and powers described in division (B)(2) of this section.

(5) When a judgment under this section becomes final, the clerk of court shall mail a copy of the judgment, including supporting opinions, to the superintendent.

(C) The remedies provided by this section are in addition to any other remedy provided by law.

(D) In any proceeding or action brought under sections 1322.01 to 1322.12 of the Revised Code, the burden of proving an exemption under those sections is on the person claiming the benefit of the exemption.

(E) No person shall be deemed to violate sections 1322.01 to 1322.12 of the Revised Code with respect to any act taken or omission made in reliance on a written notice, written interpretation, or written report from the superintendent, unless there is a subsequent amendment to those sections, or rules promulgated thereunder, that affects the superintendent's notice, interpretation, or report.

(F) Upon disbursement of mortgage loan proceeds to or on behalf of the buyer, the registrant that assisted the buyer to obtain the mortgage loan is deemed to have completed the performance of the registrant's services for the buyer and owes no additional duties or obligations to the buyer with respect to the mortgage loan. However, nothing in this division shall be construed to limit or preclude the civil or criminal liability of a registrant for failing to comply with sections 1322.01 to 1322.12 of the Revised Code or any rule adopted under those sections, for failing to comply with any provision of or duty arising under an agreement with a buyer or lender under sections 1322.01 to 1322.12 of the Revised Code, or for violating any other provision of state or federal law.

(G) A buyer injured by a violation of any of the sections specified in division (A)(1) of this section is precluded from recovering any damages, plus reasonable attorney's fees and costs, if the buyer has also recovered any damages in a cause of action initiated under section 1322.081 of the Revised Code and the recovery of damages for a violation of any of the sections specified in division (A)(1) of this section is based on the same acts or circumstances as the basis for recovery of damages in section 1322.081 of the Revised Code.

**Sec. 1322.99 .** (A) Whoever violates division (A)(1) or (2) of section

1322.02, division (E) ~~or~~ (F) or (G) of section 1322.07, division (B)(1) or (2) of section 1322.071, or section 1322.08 of the Revised Code is guilty of a felony of the fifth degree.

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

(C) Whoever violates division (B) of section 1322.02 of the Revised Code is guilty of a misdemeanor of the first degree.

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

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

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

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

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

(C) ~~Residential~~ (1) Except as provided in division (C)(2) of this section, residential mortgage obligations contracted for on or after November 4, 1975, may be prepaid or refinanced without penalty at any time after five years from the execution date of the mortgage. Prior to such time a prepayment or refinancing penalty may be provided not in excess of one per cent of the original principal amount of the residential mortgage.

(2)(a) No penalty may be charged for the prepayment or refinancing of a residential mortgage obligation of less than seventy-five thousand dollars that is

made or arranged by a mortgage broker, loan officer, or nonbank mortgage lender, as those terms are defined in section 1345.01 of the Revised Code, and that is secured by a mortgage on a borrower's real estate that is a first lien on the real estate.

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

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

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

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

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

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

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

(F) "Natural gas service" means the sale of natural gas, exclusive of any

distribution or ancillary service.

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

(H) "Loan officer" has the same meaning as in section 1322.01 of the Revised Code, except that it does not include an employee of a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; an employee of a subsidiary of such a bank, savings bank, savings and loan association, or credit union; or an employee of an affiliate that (1) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (2) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration.

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

(J) "Mortgage broker" has the same meaning as in section 1322.01 of the Revised Code, except that it does not include a bank, savings bank, savings and loan association, credit union, or credit union service organization organized under the laws of this state, another state, or the United States; a subsidiary of such a bank, savings bank, savings and loan association, or credit union; an affiliate that (1) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (2) is subject to examination, supervision, and regulation, including with respect to the affiliate's compliance with applicable consumer protection requirements, by the board of governors of the federal reserve system, the comptroller of the currency, the office of thrift supervision, the federal deposit insurance corporation, or the national credit union administration; or an employee of any such entity.

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

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

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

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

**Sec. 1345.02 .** (A) No supplier shall commit an unfair or deceptive act or practice in connection with a consumer transaction. Such an unfair or deceptive act or practice by a supplier violates this section whether it occurs before, during, or after the transaction.

(B) Without limiting the scope of division (A) of this section, the act or practice of a supplier in representing any of the following is deceptive:

(1) That the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits that it does not have;

(2) That the subject of a consumer transaction is of a particular standard, quality, grade, style, prescription, or model, if it is not;

(3) That the subject of a consumer transaction is new, or unused, if it is not;

(4) That the subject of a consumer transaction is available to the consumer for a reason that does not exist;

(5) That the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not, except that the act of a supplier in furnishing similar merchandise of equal or greater value as a good faith substitute does not violate this section;

(6) That the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;

(7) That replacement or repair is needed, if it is not;

(8) That a specific price advantage exists, if it does not;

(9) That the supplier has a sponsorship, approval, or affiliation that the supplier does not have;

(10) That a consumer transaction involves or does not involve a warranty, a disclaimer of warranties or other rights, remedies, or obligations if the representation is false.

(C) In construing division (A) of this section, the court shall give due consideration and great weight to federal trade commission orders, trade regulation rules and guides, and the federal courts' interpretations of subsection 45 (a)(1) of the "Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 41, as amended.

(D) No supplier shall offer to a consumer or represent that a consumer will receive a rebate, discount, or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers, or otherwise helping the supplier to enter into other consumer transactions, if earning the benefit is contingent upon an event occurring after the consumer enters into the transaction.

(E)(1) No supplier, in connection with a consumer transaction involving natural gas service or public telecommunications service to a consumer in this state, shall request or submit, or cause to be requested or submitted, a change in the consumer's provider of natural gas service or public telecommunications service, without first obtaining, or causing to be obtained, the verified consent of the consumer. For the purpose of this division and with respect to public telecommunications service only, the procedures necessary for verifying the consent of a consumer shall be those prescribed by rule by the public utilities commission for public telecommunications service under division (D) of section 4905.72 of the Revised Code. Also, for the purpose of this division, the act, omission, or failure of any officer, agent, or other individual, acting for or employed by another person, while acting within the scope of that authority or employment, is the act or failure of that other person.

(2) Consistent with the exclusion, under 47 C.F.R. 64.1100(a)(3), of commercial mobile radio service providers from the verification requirements adopted in 47 C.F.R. 64.1100, 64.1150, 64.1160, 64.1170, 64.1180, and 64.1190 by the federal communications commission, division (E)(1) of this section does not apply to a provider of commercial mobile radio service insofar as such provider is engaged in the provision of commercial mobile radio service. However, when that exclusion no longer is in effect, division (E)(1) of this section shall apply to such a provider.

(3) The attorney general may initiate criminal proceedings for a prosecution under division (C) of section 1345.99 of the Revised Code by presenting evidence of criminal violations to the prosecuting attorney of any

county in which the offense may be prosecuted. If the prosecuting attorney does not prosecute the violations, or at the request of the prosecuting attorney, the attorney general may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before grand juries.

(F) Concerning a consumer transaction in connection with a residential mortgage, and without limiting the scope of division (A) or (B) of this section, the act of a supplier in doing either of the following is deceptive:

(1) Knowingly failing to provide disclosures required under state and federal law;

(2) Knowingly providing a disclosure that includes a material misrepresentation.

**Sec. 1345.03 .** (A) No supplier shall commit an unconscionable act or practice in connection with a consumer transaction. Such an unconscionable act or practice by a supplier violates this section whether it occurs before, during, or after the transaction.

(B) In determining whether an act or practice is unconscionable, the following circumstances shall be taken into consideration:

(1) Whether the supplier has knowingly taken advantage of the inability of the consumer reasonably to protect ~~his~~ the consumer's interests because of ~~his~~ the consumer's physical or mental infirmities, ignorance, illiteracy, or inability to understand the language of an agreement;

(2) Whether the supplier knew at the time the consumer transaction was entered into that the price was substantially in excess of the price at which similar property or services were readily obtainable in similar consumer transactions by like consumers;

(3) Whether the supplier knew at the time the consumer transaction was entered into of the inability of the consumer to receive a substantial benefit from the subject of the consumer transaction;

(4) Whether the supplier knew at the time the consumer transaction was entered into that there was no reasonable probability of payment of the obligation in full by the consumer;

(5) Whether the supplier required the consumer to enter into a consumer transaction on terms the supplier knew were substantially one-sided in favor of the supplier;

(6) Whether the supplier knowingly made a misleading statement of opinion on which the consumer was likely to rely to ~~his~~ the consumer's detriment;

(7) Whether the supplier has, without justification, refused to make a refund in cash or by check for a returned item that was purchased with cash or



by check, unless the supplier had conspicuously posted in the establishment at the time of the sale a sign stating the supplier's refund policy.

(C) This section does not apply to a consumer transaction in connection with a residential mortgage.

**Sec. 1345.031 .** (A) No supplier shall commit an unconscionable act or practice concerning a consumer transaction in connection with a residential mortgage. Such an unconscionable act or practice by a supplier violates this section whether it occurs before, during, or after the transaction.

(B) For purposes of division (A) of this section, the following acts or practices of a supplier in connection with such a transaction are unconscionable:

(1) Arranging for or making a mortgage loan that provides for an interest rate applicable after default that is higher than the interest rate that applies before default, excluding rates of interest for judgments applicable to the mortgage loan under section 1343.02 or 1343.03 of the Revised Code and also excluding interest rate changes in a variable rate loan transaction otherwise consistent with the provisions of the loan documents;

(2) Engaging in a pattern or practice of providing consumer transactions to consumers based predominantly on the supplier's realization of the foreclosure or liquidation value of the consumer's collateral without regard to the consumer's ability to repay the loan in accordance with its terms, provided that the supplier may use any reasonable method to determine a borrower's ability to repay;

(3) Making a consumer transaction that permits the creditor to demand repayment of the outstanding balance of a mortgage loan, in advance of the original maturity date unless the creditor does so in good faith due to the consumer's failure to abide by the material terms of the loan.

(4) Knowingly replacing, refinancing, or consolidating a zero interest rate or other low-rate mortgage loan made by a governmental or nonprofit lender with another loan unless the current holder of the loan consents in writing to the refinancing and the consumer presents written certification from a third-party nonprofit organization counselor approved by the United States department of housing and urban development or the superintendent of financial institutions that the consumer received counseling on the advisability of the loan transaction. For purposes of division (B)(4) of this section, a "low-rate mortgage loan" means a mortgage loan that carries a current interest rate two percentage points or more below the current yield on United States treasury securities with a comparable maturity. If the loan's current interest rate is either a discounted introductory rate or a rate that automatically steps up over time, the fully indexed rate or the fully stepped-up rate, as applicable, shall be used, in lieu of the current rate, to determine whether a loan is a low-rate mortgage loan.

(5) Instructing the consumer to ignore the supplier's written information regarding the interest rate and dollar value of points because they would be lower for the consumer's consumer transaction;

(6) Recommending or encouraging a consumer to default on a mortgage or any consumer transaction or revolving credit loan agreement;

(7) Charging a late fee more than once with respect to a single late payment. If a late payment fee is deducted from a payment made on the loan and such deduction causes a subsequent default on a subsequent payment, no late payment fee may be imposed for such default. If a late payment fee has been imposed once with respect to a particular late payment, no such fee may be imposed with respect to any future payment that would have been timely and sufficient but for the previous default.

(8) Failing to disclose to the consumer at the closing of the consumer transaction that a consumer is not required to complete a consumer transaction merely because the consumer has received prior estimates of closing costs or has signed an application and should not close a loan transaction that contains different terms and conditions than those the consumer was promised;

(9) Arranging for or making a consumer transaction that includes terms under which more than two periodic payments required under the consumer transaction are consolidated and paid in advance from the loan proceeds provided to the consumer;

(10) Knowingly compensating, instructing, inducing, coercing, or intimidating, or attempting to compensate, instruct, induce, coerce, or intimidate, a person licensed or certified under Chapter 4763. of the Revised Code for the purpose of corrupting or improperly influencing the independent judgment of the person with respect to the value of the dwelling offered as security for repayment of a mortgage loan;

(11) Financing, directly or indirectly, any credit, life, disability, or unemployment insurance premiums, any other life or health insurance premiums, or any debt collection agreement. Insurance premiums calculated and paid on a monthly basis shall not be considered financed by the lender.

(12) Knowingly or intentionally engaging in the act or practice of "flipping" a mortgage loan. "Flipping" a mortgage loan is making a mortgage loan that refinances an existing mortgage loan when the new loan does not have reasonable, tangible net benefit to the consumer considering all of the circumstances, including the terms of both the new and refinanced loans, the cost of the new loan, and the consumer's circumstances. This provision applies regardless of whether the interest rate, points, fees, and charges paid or payable by the consumer in connection with the refinancing exceed any thresholds specified in any section of the Revised Code.

(13) Knowingly taking advantage of the inability of the consumer to reasonably protect the consumer's interests because of the consumer's known physical or mental infirmities or illiteracy;

(14) Entering into the consumer transaction knowing there was no reasonable probability of payment of the obligation by the consumer;

(15) Attempting to enforce, by means not limited to a court action, a prepayment penalty in violation of division (C)(2) of section 1343.011 of the Revised Code;

(16) Engaging in an act or practice deemed unconscionable by rules adopted by the attorney general pursuant to division (B)(2) of section 1345.05 of the Revised Code.

(C)(1) Any unconscionable arbitration clause, unconscionable clause requiring the consumer to pay the supplier's attorney's fees, or unconscionable liquidated damages clause included in a mortgage loan contract is unenforceable.

(2) No supplier shall do either of the following:

(a) Attempt to enforce, by means not limited to a court action, any clause described in division (C)(1) of this section;

(b) By referring to such a clause, attempt to induce the consumer to take any action desired by the supplier.

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

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

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

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

(4) Inform consumers and suppliers on a continuing basis of acts or practices ~~which~~ that violate Chapter 1345. of the Revised Code by, among other things, publishing an informational document describing acts and practices in connection with residential mortgages that are unfair, deceptive, or unconscionable, and by making that information available on the attorney general's official web site ;

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

(6) Report annually on or before the first day of January to the governor and the general assembly on the operations of the attorney general in respect to

Chapter 1345. of the Revised Code, and on the acts or practices occurring in this state that violate such chapter. The report shall include a statement of investigatory and enforcement procedures and policies, of the number of investigations and enforcement proceedings instituted and of their disposition, and of other activities of the state and of other persons to promote the purposes of Chapter 1345. of the Revised Code.

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

(B) The attorney general may:

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

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

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

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

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

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

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

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

**Sec. 1345.07 .** (A) If the attorney general, by ~~his~~ the attorney general's own inquiries or as a result of complaints, has reasonable cause to believe that a supplier has engaged or is engaging in an act or practice that violates this chapter, and that the action would be in the public interest, ~~he~~ the attorney general may bring any of the following:

(1) An action to obtain a declaratory judgment that the act or practice violates section 1345.02 ~~or~~ , 1345.03 , or 1345.031 of the Revised Code;

(2) An action, with notice as required by Civil Rule 65, to obtain a temporary restraining order, preliminary injunction, or permanent injunction to restrain the act or practice. If the attorney general shows by a preponderance of the evidence that the supplier has violated or is violating section 1345.02 ~~or~~ , 1345.03 , or 1345.031 of the Revised Code, the court may issue a temporary restraining order, preliminary injunction, or permanent injunction to restrain and prevent the act or practice. On motion of the attorney general, or on its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of violation of a temporary restraining order, preliminary injunction, or permanent injunction issued under this section, if the supplier received notice of the action. The civil penalties shall be paid as provided in division (G) of this section. Upon the commencement of an action under division (A)(2) of this section against a supplier who operates under a license, permit, certificate, commission, department, division, or other agency of this state, the attorney general shall immediately notify the supreme court or agency that such an action has been commenced against the supplier.

(3) A class action under Civil Rule 23, as amended, on behalf of consumers who have engaged in consumer transactions in this state for damage caused by:

(a) An act or practice enumerated in division (B) or (D) of section 1345.02 of the Revised Code;

(b) Violation of a rule adopted under division (B)(2) of section 1345.05 of the Revised Code before the consumer transaction on which the action is based;

(c) An act or practice determined by a court of this state to violate section 1345.02 ~~or~~ 1345.03 or 1345.031 of the Revised Code and committed after the decision containing the determination has been made available for public inspection under division (A)(3) of section 1345.05 of the Revised Code.

(B) On motion of the attorney general and without bond, in the attorney general's action under this section, the court may make appropriate orders, including appointment of a referee or a receiver, for sequestration of assets, to reimburse consumers found to have been damaged, to carry out a transaction in accordance with a consumer's reasonable expectations, to strike or limit the application of unconscionable clauses of contracts so as to avoid an unconscionable result, or to grant other appropriate relief. The court may assess the expenses of a referee or receiver against the supplier.

(C) Any moneys or property recovered by the attorney general in an action under this section that cannot with due diligence within five years be restored by a referee to consumers shall be unclaimed funds reportable under Chapter 169. of the Revised Code.

(D) In addition to the other remedies provided in this section, if the violation is an act or practice that was declared to be unfair, deceptive, or unconscionable by a rule adopted pursuant to division (B)(2) of section 1345.05 of the Revised Code before the consumer transaction on which the action is based occurred or an act or practice that was determined by a court of this state to violate section 1345.02 ~~or~~ 1345.03 or 1345.031 of the Revised Code and committed after the decision containing the court's determination was made available for public inspection pursuant to division (A)(3) of section 1345.05 of the Revised Code, the attorney general may request and the court may impose a civil penalty of not more than twenty-five thousand dollars against the supplier. The civil penalties shall be paid as provided in division (G) of this section.

(E) No action may be brought by the attorney general under this section to recover for a transaction more than two years after the occurrence of a violation.

(F) If a court determines that provision has been made for reimbursement or other appropriate corrective action, insofar as practicable, with respect to all consumers damaged by a violation, or in any other appropriate case, the attorney general, with court approval, may terminate enforcement proceedings brought by ~~him~~ the attorney general upon acceptance of an assurance from the supplier of voluntary compliance with Chapter 1345. of the Revised Code, with respect to the alleged violation. The assurance shall be filed with the court and entered as a consent judgment. Except as provided in division (A) of section 1345.10 of the Revised Code, a consent judgment is not evidence of prior violation of such chapter. Disregard of the terms of a consent judgment entered upon an assurance

shall be treated as a violation of an injunction issued under this section.

(G) Civil penalties ordered pursuant to divisions (A) and (D) of this section shall be paid as follows: one-fourth of the amount to the treasurer of the county in which the action is brought and three-fourths to the consumer protection enforcement fund created by section 1345.51 of the Revised Code.

(H) The remedies available to the attorney general under this section are cumulative and concurrent, and the exercise of one remedy by the attorney general does not preclude or require the exercise of any other remedy. The attorney general is not required to use any procedure set forth in section 1345.06 of the Revised Code prior to the exercise of any remedy set forth in this section.

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

(A) Where the violation was an act prohibited by section 1345.02 ~~or~~ , 1345.03 , or 1345.031 of the Revised Code, the consumer may, in an individual action, rescind the transaction or recover ~~his~~ the consumer's damages.

(B) Where the violation was an act or practice declared to be deceptive or unconscionable by rule adopted under division (B) (2) of section 1345.05 of the Revised Code before the consumer transaction on which the action is based, or an act or practice determined by a court of this state to violate section 1345.02 ~~or~~ , 1345.03 , or 1345.031 of the Revised Code and committed after the decision containing the determination has been made available for public inspection under division (A)(3) of section 1345.05 of the Revised Code, the consumer may rescind the transaction or recover, but not in a class action, three times the amount of ~~his~~ the consumer's actual damages or two hundred dollars, whichever is greater, or recover damages or other appropriate relief in a class action under Civil Rule 23, as amended.

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

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

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

(E) When a consumer commences an individual action for a declaratory

judgment or an injunction or a class action under this section, the clerk of court shall immediately mail a copy of the complaint to the attorney general. Upon timely application, the attorney general may be permitted to intervene in any private action or appeal pending under this section. When a judgment under this section becomes final, the clerk of court shall mail a copy of the judgment including supporting opinions to the attorney general for inclusion in the public file maintained under division (A)(3) of section 1345.05 of the Revised Code.

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

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

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

**Sec. 1345.091 . No claim or defense under this chapter may be asserted by the attorney general or any consumer against an assignee or purchaser of a mortgage loan for value unless any one of the following applies:**

(A) The violation was committed by the assignee or purchaser.

(B) The assignee or purchaser is affiliated by common control with the seller of the loan at the time of such assignment or purchase.

**Sec. 1349.25 .** As used in sections 1349.25 to 1349.37 of the Revised Code:

(A) "Actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(B) "Consumer" means a natural person to whom credit is offered or extended primarily for personal, family, or household purposes.

(C) "Consummation" means the time that a consumer becomes contractually obligated on a credit transaction.

(D) "Covered loan" means a consumer credit mortgage loan transaction including an open end credit plan, that meets both of the following criteria:

~~(1) The loan involves property located within this state - . is secured by the consumer's principal dwelling, and meets either of the following criteria:~~

~~(2) (1) The loan is considered a mortgage annual percentage rate at consummation of the transaction exceeds the amount established under section 152(a) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1602(aa), as amended, and the regulations adopted thereunder by the federal reserve board, as amended.~~



(2) If the total loan amount is twenty-five thousand dollars or more, the total points and fees payable by the consumer at or before loan closing exceed five per cent of the total loan amount. If the total loan amount is less than twenty-five thousand dollars, the total points and fees payable by the consumer at or before loan closing exceed eight per cent of the total loan amount.

For purposes of division (D) of this section:

(a) "Points and fees" has the same meaning as in section 152(a) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C. 1602(aa), as amended, and the regulations adopted thereunder by the federal reserve board, as amended, and includes single premium credit insurance and all compensation paid directly or indirectly to a mortgage broker from any source. For transactions under an open end credit plan, "points and fees" includes fees paid for the ability to access the line of credit and fees paid in order to utilize the maximum amount of credit available.

"Points and fees" does not include fees paid to a federal or state government agency that insures payment of some portion of a home loan, including the federal housing administration and the United States department of veterans affairs, or an amount not to exceed one percentage point in indirect mortgage broker compensation paid by any source.

(b) "Total loan amount" means the principal of the loan minus points and fees that are included in the principal amount. For transactions under an open end credit plan, "total loan amount" shall be calculated by using the total line of credit allowed under the loan at closing.

(c) "Consumer credit mortgage loan transaction" does not include a residential mortgage transaction or a reverse mortgage transaction.

Nothing in division (D) of this section shall be construed to authorize a consumer or any other party to pay compensation to a creditor for services provided by the creditor in connection with a covered loan, or to prohibit a creditor from charging or receiving such compensation.

(E) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(F) "Creditor" has the same meaning as in section 152(c) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1602(f), as amended, and the regulations adopted thereunder by the federal reserve board, as amended.

(G) "Person" means a natural person, partnership, association, trust, corporation, or any other legal entity.

(H) The terms "open end credit plan," "residential mortgage transaction," and "reverse mortgage transaction" have the same meanings as in section 152(a) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C. 1602, as amended, and the regulations adopted thereunder by the federal

reserve board, as amended.

**Sec. 1349.27** . A creditor shall not do any of the following:

(A) Make a covered loan that includes any of the following:

(1) Terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due. For purposes of division (A)(1) of this section, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method.

Division (A)(1) of this section does not apply to a prepayment penalty imposed in accordance with section 129(c)(2) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1639(c)(2), as amended, and the regulations adopted thereunder by the federal reserve board, as amended.

(2) Terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due;

(3) Terms under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer;

(4) Terms under which a rebate of interest arising from a loan acceleration due to default is calculated by a method less favorable than the actuarial method.

(B) Make a covered loan that provides for an interest rate applicable after default that is higher than the interest rate that applies before default;

(C) Make a covered loan having a term of less than five years that includes terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance. This division does not apply to any covered loan with a maturity of less than one year, if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the consumer's principal dwelling.

(D) Engage in a pattern or practice of extending credit to consumers under covered loans based on the consumers' collateral without regard to the consumers' repayment ability, including the consumers' current and expected income, current obligations, and employment;

(E) Make a payment to a contractor under a home improvement contract from amounts extended as credit under a covered loan, except in either of the following ways:

(1) By an instrument that is payable to the consumer or jointly to the consumer and the contractor;

(2) At the election of the consumer, by a third party escrow agent in

accordance with terms established in a written agreement signed by the consumer, the creditor, and the contractor before the date of payment.

(F) On or after October 1, 2002, make a covered loan that includes a demand feature that permits the creditor to terminate the loan in advance of the original maturity date and to demand repayment of the entire outstanding balance, except in any of the following circumstances:

(1) There is fraud or material misrepresentation by the consumer in connection with the loan.

(2) The consumer fails to meet the repayment terms of the agreement for any outstanding balance.

(3) There is any action or inaction by the consumer that adversely affects the creditor's security for the loan or any right of the creditor in that security.

(G)(1) Within one year after having made a covered loan, refinance a covered loan to the same borrower into another covered loan, unless the refinancing is in the consumer's interest. An assignee holding or servicing a covered loan shall not, for the remainder of the one-year period following the date of origination of the covered loan, refinance any covered loan to the same consumer into another covered loan, unless the refinancing is in the consumer's interest.

A creditor or assignee shall not engage in acts or practices to evade division (G)(1) of this section, including a pattern or practice of arranging for the refinancing of its own loans by affiliated or unaffiliated creditors, or modifying a loan agreement, whether or not the existing loan is satisfied and replaced by the new loan, and charging a fee.

(2) Division (G)(1) of this section shall apply on and after October 1, 2002.

(H) Make a covered loan without first obtaining a copy of the mortgage loan origination disclosure statement that was delivered to the buyer in accordance with division (A)(1) of section 1322.062 of the Revised Code;

(I) Finance, directly or indirectly, into a covered loan or finance to the same borrower within thirty days of a covered loan any credit life or credit disability insurance premiums sold in connection with the covered loan, provided that any credit life or credit disability insurance premiums calculated and paid on a monthly or other periodic basis shall not be considered financed by the person originating the loan. For purposes of this division, credit life or credit disability insurance does not include a contract issued by a government agency or private mortgage insurance company to insure the lender against loss caused by a mortgagor's default.

(J) Replace or consolidate a zero interest rate or other low-rate loan made by a governmental or nonprofit lender with a covered loan within the first ten years of the low-rate loan unless the current holder of the loan consents in

writing to the refinancing. For purposes of this division, a "low-rate loan" means a loan that carries a current interest rate two percentage points or more below the current yield on United States treasury securities with a comparable maturity. If the loan's current interest rate is either a discounted introductory rate or a rate that automatically steps up over time, the fully indexed rate or the fully stepped-up rate, as applicable, shall be used, in lieu of the current rate, to determine whether a loan is a low-rate loan.

(K) Make a covered loan if, at the time the loan was consummated, the consumer's total monthly debt, including amounts owed under the loan, exceed fifty per cent of the consumer's monthly gross income, as verified by the credit application, the consumer's financial statement, a credit report, financial information provided to the person originating the loan by or on behalf of the consumer, or any other reasonable means, unless the consumer submits both of the following:

(1) Verification that the consumer received prepurchase counseling from a counseling service that meets the criteria established by the superintendent of financial institutions under section 1349.271 of the Revised Code;

(2) A disclosure, signed by the consumer, that acknowledges the risk of entering into such a loan.

**Sec. 1349.271 . (A) The superintendent of financial institutions shall, in accordance with Chapter 119. of the Revised Code, adopt rules that establish criteria for purposes of qualifying counseling services that provide prepurchase counseling to consumers.**

(B) Any not-for-profit credit counseling service approved by an agency of the federal government shall be deemed to meet the criteria established by the superintendent under this section.

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

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

(B) The superintendent of financial institutions may directly bring an action to enjoin a violation of this section. The attorney general may directly bring an action against a mortgage broker, loan officer, or nonbank mortgage lender to enjoin a violation of this section with the same rights, privileges, and powers as those described in section 1345.06 of the Revised Code. The prosecuting attorney of the county in which the action may be brought may bring an action against a mortgage broker, loan officer, or nonbank mortgage lender to enjoin a violation of this section only if the prosecuting attorney first presents any evidence of the violation to the attorney general and, within a reasonable

period of time, the attorney general has not agreed to bring the action.

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

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

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

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

**Sec. 1349.41 . (A) As used in this section:**

(1) "Consumer" means an individual to whom credit is offered or extended primarily for personal, family, or household purposes.

(2) "Lender" means a nonbank mortgage lender as defined in section 1345.01 of the Revised Code. "Lender" does not include a person that purchases or is assigned a loan or that functions solely as the servicer of a loan.

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

(B) A lender shall not engage in a transaction, practice, or course of business that is not in good faith or fair dealing, or that operates a fraud upon any person, in connection with the attempted or actual making, purchase, or sale of any mortgage loan.

(C) If a lender fails to comply with division (B) of this section, the affected consumer may recover damages of not less than all compensation paid directly or indirectly to the lender from any source, plus reasonable attorney's fees and court costs.

(D) The duty created by this section shall not be waived or modified.

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

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

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

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

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

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

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

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

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

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

**Sec. 1349.44 .** (A) The superintendent of financial institutions shall report semiannually to the governor and the general assembly on the operations of the division of financial institutions with respect to the following:

(1) Enforcement actions instituted by the superintendent for a violation of or failure to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code, and their final dispositions;

(2) Suspensions, revocations, or refusals to issue or renew certificates of registration and licenses under sections 1322.01 to 1322.12 of the Revised Code;

(3) Outreach efforts of the office of consumer affairs to provide education regarding predatory lending, borrowing, and related financial topics.

(B) The information required under divisions (A)(1) and (2) of this section does not include information that, pursuant to section 1322.061 of the Revised Code, is confidential.

**Sec. 1349.71 .** (A) There is hereby created a consumer finance education board, consisting of twelve members, appointed jointly by the governor, the speaker of the house of representatives, and the president of the senate with the advice and consent of the house and senate. One member shall be appointed from, or as a representative of, each of the following:

- (1) The Ohio attorney general's office;
- (2) The department of commerce;
- (3) The Ohio housing finance agency;
- (4) Ohio minority advocacy groups;
- (5) The Ohio bankers league;
- (6) The Ohio mortgage bankers association;
- (7) The Ohio credit union league;
- (8) Ohio community bankers association;
- (9) The Ohio real estate industry;
- (10) The Ohio mortgage brokers association;
- (11) The financial services industry;
- (12) Consumer advocacy organizations.

(B) Geographically diverse representation of the state shall be considered in making appointments. Of the initial appointments to the board, four shall be for a term ending December 31, 2008, four shall be for a term ending December 31, 2009, and four shall be for a term ending December 31, 2010. Thereafter, terms of office are for three years, commencing on the first day of January and ending on the thirty-first day of December. Each member shall hold office from the date of the member's appointment until the end of the term for which the member is appointed. Prior to assuming the duties of office, each member shall subscribe to, and file with the secretary of state, the constitutional oath of office. Vacancies that occur on the board shall be filled in the manner prescribed for regular appointments to the board. A member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that predecessor's term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until sixty days have elapsed, whichever occurs first. No person shall serve as a member of the board for more than two consecutive terms. The governor may remove a member pursuant to section 3.04 of the Revised Code.

(C) Annually, upon the qualification of the members appointed in that

year, the board shall organize by selecting from its members a chairperson. The board shall meet at least once each calendar quarter to conduct its business with the place of future meetings to be decided by a vote of its members. Each member shall be provided with written notice of the time and place of each board meeting at least ten days prior to the scheduled date of the meeting. A majority of the members of the board constitutes a quorum to transact and vote on all business coming before the board.

(D)(1) The governor shall call the first meeting of the consumer finance education board. At that meeting, and annually thereafter, the board shall elect a chairperson for a one-year term and may elect members to other positions on the board as the board considers necessary or appropriate.

(2) Each member of the board shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code for each day employed in the discharge of the member's official duties, and the member's actual and necessary expenses incurred in the discharge of those duties.

(E) The board may obtain services from any state agency including but not limited to the department of commerce or its successor agency.

(F) The board shall assemble an advisory committee of representatives from the following organizations or groups for the purpose of receiving recommendations on policy, rules, and activities of the board:

- (1) The department of aging;
- (2) The department of rehabilitation and correction;
- (3) The department of development;
- (4) The department of job and family services;
- (5) The Ohio treasurer of state's office;
- (6) The county treasurers association of Ohio;
- (7) Ohio college professors;
- (8) Ohio university professors;
- (9) The Ohio board of regents;
- (10) The Ohio community development corporations association;
- (11) The Ohio council for economic education;
- (12) The Ohio state university extension service.

**Sec. 1349.72 . (A) In addition to any other duties imposed on the consumer finance education board by section 1349.71 of the Revised Code, the board shall:**

(1) Analyze and investigate, on its own initiative, the policies and practices of state agencies, nonprofit entities, and businesses, inasmuch as such policies and practices address financial literacy, access by state residents to



financial information, education, and resources, prevention of foreclosures and bankruptcies, and prepurchase and postpurchase counseling and education for homebuyers;

(2) Provide an annual report and consultation and recommendations to the governor, the general assembly, state agencies, nonprofit entities, and businesses based on the board's findings;

(3) Coordinate and provide resources and assistance to state agencies, nonprofit entities, and businesses in the furtherance of those entities' efforts to improve financial literacy, access by state residents to financial information, education, and resources, prevention of foreclosures and bankruptcies, and prepurchase and postpurchase counseling and education for homebuyers.

(4) Provide financial assistance to Ohioans through grants funded through the consumer finance fund created under section 1321.21 of the Revised Code and utilize these same funds to provide grants to design, develop, and implement any other programs described in this section.

(5) Receive grants from the consumer finance fund for the implementation of this section.

(B) The board may assign and delegate the execution of its duties to smaller groups of its own members, which shall include committees specifically chartered to address all of the following issues:

(1) The needs of persons, ages eighteen to twenty-five, in the context of the objectives enumerated in division (A) of this section;

(2) The needs of persons, classified as needy, based on a household adjusted gross income equal to or less than two hundred per cent of the poverty level, as determined by the Ohio office of budget and management, or the earned income amount described in section thirty-two of the Internal Revenue Code of 1986, taking into account the size of the household, in the context of the objectives enumerated in division (A) of this section;

(3) The needs of persons, previously convicted of one or more felonies, in the context of the objectives enumerated in division (A) of this section;

(4) The needs of persons, characterized as vulnerable by reason of advanced age, disability, minority, or other demographic consideration, in the context of the objectives enumerated in division (A) of this section;

(5) Any other group or issue identified by the board as worthy of particular attention.

(C) The board shall create a pilot financial literacy and counseling program funded through the consumer finance fund, to be operated in the five counties with the highest mortgage foreclosure rates as of the effective date of this section, and completion of which shall be recommended by mortgage brokers and loan officers for any consumer seeking a mortgage loan with origination fees greater than five per cent. Before a mortgage broker permits a

consumer to commit to such a loan, the broker shall notify the consumer that the loan may have attributes that are predatory. No person who offers education, advice, or counseling through the financial literacy and counseling program shall be held liable for any damages incurred from actions taken based on the education, advice, or counseling given.

**Sec. 3953.23 .** (A) Every title insurance agent shall keep books of account and record and vouchers pertaining to the business of title insurance in such manner that the title insurance company may readily ascertain from time to time whether the agent has complied with this chapter.

(B) A title insurance agent may engage in the business of handling escrows of real property transactions ~~directly connected with the business of title insurance,~~ provided that the agent shall maintain a separate record of all receipts and disbursements of escrow funds and shall not commingle any such funds with the agent's own funds or with funds held by the agent in any other capacity; and if at any time the superintendent of insurance determines that an agent has failed to comply with any of the provisions of this section, the superintendent may revoke the license of the agent pursuant to section 3905.14 of the Revised Code, subject to review as provided for in Chapter 119. of the Revised Code. ~~All agents shall be covered by a fidelity bond in an amount and with a company satisfactory to the principal.~~

(C) All title insurance agents or agencies that handle escrows in real property transactions not involving the issuance of title insurance shall have coverage that protects the parties to such transactions against theft, misappropriation, fraud, or any other failure to properly disburse settlement, closing, or escrow funds. The superintendent shall adopt rules under Chapter 119. of the Revised Code setting forth the minimum requirements for such coverage, including, but not limited to, the minimum amounts, terms, and conditions of such coverage.

(D) The superintendent shall require every title insurance agent or agency and any subcontractors to maintain an errors and omissions policy, in any amount exceeding minimum limits established by the superintendent, that includes but is not limited to coverage for the agent's or agency's delegation of any agent or agency function. The superintendent shall adopt rules under Chapter 119. of the Revised Code setting forth the minimum requirements for that coverage, including but not limited to the minimum amounts, terms, and conditions of the coverage.

**Sec. 3953.30 .** (A) As used in this section:

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

(2) "Residential mortgage lender" means any person, including, but not

limited to, banks, savings and loan associations, mortgage brokers, credit unions, or savings banks, that lends money or extends or grants credit and obtains a residential mortgage to assure payment of the debt.

(B) A title insurance agent issuing a lender's title insurance policy in conjunction with a residential mortgage loan made simultaneously with the purchase of all or part of the real property securing the loan, where no owner's title insurance policy has been requested, shall give written notice, on a form prescribed or approved by the superintendent of insurance, to the mortgagor at the time the commitment is prepared. The notice shall explain that a lender's title insurance policy is to be issued protecting the residential mortgage lender, and that the policy does not provide title insurance protection to the mortgagor as the owner of the property being purchased. The notice shall explain what an owner's title insurance policy insures against and what possible exposures exist for the mortgagor that could be insured against through the purchase of an owner's title insurance policy. The notice shall state that the mortgagor may obtain an owner's title insurance policy protecting the mortgagor as the owner of the property, either at a specified cost or at an approximate cost if the proposed coverages or amount of insurance is not then known. The title insurance agent shall maintain a copy of the notice, signed by the mortgagor, in the relevant underwriting file for at least ten years after the effective date of the lender's title insurance policy.

**Sec. 3953.32 . (A) At the time of close with a title insurance company for issuance of a title insurance policy, the title insurance company or the title insurance agent shall offer closing or settlement protection to the lender, borrower, and seller of the property, and to any applicant for title insurance.**

(B) The closing or settlement protection offered pursuant to this section shall indemnify any lender, borrower, seller, and applicant that has requested the protection, both individually and collectively, against the loss of settlement funds resulting from any of the following acts of the title insurance company's named title insurance agent or anyone acting on the agent's behalf:

(1) Theft, misappropriation, fraud, or any other failure to properly disburse settlement, closing, or escrow funds;

(2) Failure to comply with any applicable written closing instructions, when agreed to by the title insurance agent.

(C) The issuance of closing or settlement protection by a title insurance company pursuant to division (A) of this section is part of the business of title insurance for purposes of Chapter 3953. of the Revised Code.

(D) Except as provided in division (A) of this section, a title insurance company shall not offer or issue any coverage purporting to indemnify against a person's improper acts or omissions in connection with escrow, settlement, or closing services.

(E) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code as the superintendent considers necessary to carry out the purposes of this section, including, but not limited to, rules that

detail the specific language that must be included in the written document offering closing or settlement protection as provided for in division (A) of this section.

**Sec. 3953.33 .** (A) Every title insurance agent or agency that handles escrow, settlement, closing, or security deposit accounts shall have an annual independent review made of its escrow, settlement, closing, and security deposit accounts on a calendar-year basis within ninety days after the close of the previous fiscal year. The title insurance agent or agency shall provide proof of the annual review to each title insurance company that it represents. The superintendent of insurance shall promulgate rules under Chapter 119. of the Revised Code setting forth the minimum threshold level at which a review is required, the standards of the review, the minimum qualifications of the independent party conducting the review, and the form of the report that is required. The superintendent may also require title insurance agents or agencies to provide a copy of their annual review reports to the superintendent. The annual review required by this division does not apply to interest on lawyer's trust accounts established and maintained by an attorney pursuant to sections 4705.09 and 4705.10 of the Revised Code.

(B) Title insurance agents and agencies shall allow the superintendent and each and every title insurer that they represent reasonable access to all of their escrow, settlement, closing, and security deposit accounts and any and all supporting account information in order to ascertain the safety and security of the funds held by the title insurance agent or agency.

(C) Title insurance agents and agencies shall maintain sufficient records of their affairs, including their escrow operations and escrow trust accounts, so that the superintendent may adequately ensure that the title insurance agent or agency is in compliance of this chapter. Records kept pursuant to this section shall be kept for a period of not less than ten years following the transactions to which the records relate. The superintendent may prescribe the specific records and documents to be kept.

**Sec. 3953.35 .** (A) No title insurance agent shall do any of the following in connection with a mortgage loan of seventy-five thousand dollars or less:

(1) Knowingly coerce or wrongfully instruct the consumer to enter into the loan;

(2) Knowingly fail to disclose to the consumer that the consumer does not have to close on the loan;

(3) Knowingly make a material misrepresentation to the consumer regarding the terms of the loan.

(B) A violation of this section is deemed an unfair and deceptive act or practice in violation of section 1345.02 of the Revised Code.

**Sec. 4735.05 .** (A) The Ohio real estate commission is a part of the department of commerce for administrative purposes. The director of commerce

is ex officio the executive officer of the commission, or the director may designate any employee of the department as superintendent of real estate and professional licensing to act as executive officer of the commission.

The commission and the real estate appraiser board created pursuant to section 4763.02 of the Revised Code shall each submit to the director a list of three persons whom the commission and the board consider qualified to be superintendent within sixty days after the office of superintendent becomes vacant. The director shall appoint a superintendent from the lists submitted by the commission and the board, and the superintendent shall serve at the pleasure of the director.

(B) The superintendent, except as otherwise provided, shall do all of the following in regard to this chapter:

- (1) Administer this chapter;
- (2) Issue all orders necessary to implement this chapter;
- (3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee;
- (4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators or auditors have the right to review and audit the business records of licensees and continuing education course providers during normal business hours.
- (5) Appoint a hearing examiner for any proceeding involving disciplinary action under section 3123.47 or 4735.18 of the Revised Code;

(6) Administer the real estate recovery fund.

(C) The superintendent may do all of the following:

- (1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;
- (2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.
- (3) Upon the death of a licensed broker or the revocation or suspension of the broker's license, if there is no other licensed broker within the business entity of the broker, appoint upon application by any interested party, or, in the case of a deceased broker, subject to the approval by the appropriate probate court, recommend the appointment of, an ancillary trustee who is qualified as determined by the superintendent to conclude the business transactions of the deceased, revoked, or suspended broker;
- (4) In conjunction with the enforcement of this chapter, when the

superintendent of real estate has reasonable cause to believe that an applicant or licensee has committed a criminal offense, the superintendent of real estate may request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant or licensee. The superintendent of the bureau of criminal identification and investigation shall obtain information from the federal bureau of investigation as part of the criminal records check of the applicant or licensee. The superintendent of real estate may assess the applicant or licensee a fee equal to the fee assessed for the criminal records check.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(4) of this section, from licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department. Notwithstanding division (D) of section 2317.023 of the Revised Code, all information obtained by investigators or auditors from an informal mediation meeting held pursuant to section 4735.051 of the Revised Code, including but not limited to the agreement to mediate and the accommodation agreement, shall be held in confidence by the superintendent, investigators, auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to licensees to the superintendent of financial institutions for purposes relating to the administration of sections 1322.01 to 1322.12 of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to local law enforcement agencies and local prosecutors. Information released by the division pursuant to this section remains confidential.

**Sec. 4763.03 .** (A) In addition to any other duties imposed on the real estate appraiser board under this chapter, the board shall:

(1) Adopt rules, in accordance with Chapter 119. of the Revised Code, in furtherance of this chapter, including, but not limited to, all of the following:

(a) Defining, with respect to state-certified general real estate appraisers, state-certified residential real estate appraisers, and state-licensed residential real estate appraisers, the type of educational experience, appraisal experience, and other equivalent experience that satisfy the requirements of this chapter. The rules shall require that all appraisal experience performed after January 1, 1996, meet the uniform standards of professional practice established by the appraisal foundation.

(b) Establishing the examination specifications for state-certified general real estate appraisers, state-certified residential real estate appraisers, and

state-licensed residential real estate appraisers;

(c) Relating to disciplinary proceedings conducted in accordance with section 4763.11 of the Revised Code, including rules governing the reinstatement of certificates, registrations, and licenses that have been suspended pursuant to those proceedings;

(d) Identifying any additional information to be included on the forms specified in division (C) of section 4763.12 of the Revised Code, provided that the rules shall not require any less information than is required in that division;

(e) Establishing the fees set forth in section 4763.09 of the Revised Code;

(f) Establishing the amount of the assessment required by division (A)(2) of section 4763.05 of the Revised Code. The board annually shall determine the amount due from each applicant for an initial certificate, registration, and license in an amount that will maintain the real estate appraiser recovery fund at the level specified in division (A) of section 4763.16 of the Revised Code. The board may, if the fund falls below that amount, require current certificate holders, registrants, and licensees to pay an additional assessment.

(g) Defining, with respect to state-registered real estate appraiser assistants, the educational and experience requirements of division (C)(1)(d) of section 4763.05 of the Revised Code;

(h) Establishing a real estate appraiser assistant program for the registration of real estate appraiser assistants.

(2) Provide or procure appropriate examination questions and answers for the examinations required by division (D) of section 4763.05 of the Revised Code, and establish the criteria for successful completion of those examinations;

(3) Periodically review the standards for preparation and reporting of real estate appraisals provided in this chapter and adopt rules explaining and interpreting those standards;

(4) Hear appeals, pursuant to Chapter 119. of the Revised Code, from decisions and orders the superintendent of real estate issues pursuant to this chapter;

(5) Request the initiation by the superintendent of investigations of violations of this chapter or the rules adopted pursuant thereto, as the board determines appropriate;

(6) Determine the appropriate disciplinary actions to be taken against certificate holders, registrants, and licensees under this chapter as provided in section 4763.11 of the Revised Code.

(B) In addition to any other duties imposed on the superintendent of real estate under this chapter, the superintendent shall:

(1) Prescribe the form and content of all applications required by this chapter;

(2) Receive applications for certifications, registrations, and licenses and renewal thereof under this chapter and establish the procedures for processing, approving, and disapproving those applications;

(3) Retain records and all application materials submitted to the superintendent;

(4) Establish the time and place for conducting the examinations required by division (D) of section 4763.05 of the Revised Code;

(5) Issue certificates, registrations, and licenses and maintain a register of the names and addresses of all persons issued a certificate, registration, or license under this chapter;

(6) Perform any other functions and duties, including the employment of staff, necessary to administer this chapter;

(7) Administer this chapter;

(8) Issue all orders necessary to implement this chapter;

(9) Investigate complaints, upon the superintendent's own motion or upon receipt of a complaint or upon a request of the board, concerning any violation of this chapter or the rules adopted pursuant thereto or the conduct of any person holding a certificate, registration, or license issued pursuant to this chapter;

(10) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators and auditors have the right to review and audit the business records of certificate holders, registrants, and licensees during normal business hours. The superintendent may utilize the investigators and auditors employed pursuant to division (B)(4) of section 4735.05 of the Revised Code or currently licensed certificate holders or licensees to assist in performing the duties of this division.

(11) Appoint a referee or examiner for any proceeding involving the revocation or suspension of a certificate, registration, or license under section 3123.47 or 4763.11 of the Revised Code;

(12) Administer the real estate appraiser recovery fund;

(13) Conduct the examinations required by division (D) of section 4763.05 of the Revised Code at least four times per year.

(C) The superintendent may do all of the following:

(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4763.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate this chapter, the court shall grant an injunction, restraining order, or other appropriate relief, or any combination thereof.



(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(10) of this section, from certificate holders, registrants, licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department of commerce, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to certificate holders, registrants, and licensees to the superintendent of financial institutions for purposes relating to the administration of sections 1322.01 to 1322.12 of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to local law enforcement agencies and local prosecutors. Information released by the division pursuant to this section remains confidential.

**Sec. 4763.05 .** (A)(1) (a) A person shall make application for an initial state-certified general real estate appraiser certificate, an initial state-certified residential real estate appraiser certificate, an initial state-licensed residential real estate appraiser license, or an initial state-registered real estate appraiser assistant registration in writing to the superintendent of real estate on a form the superintendent prescribes. The application shall include the address of the applicant's principal place of business and all other addresses at which the applicant currently engages in the business of preparing real estate appraisals and the address of the applicant's current residence. The superintendent shall retain the applicant's current residence address in a separate record which shall not constitute a public record for purposes of section 149.03 of the Revised Code. The application shall indicate whether the applicant seeks certification as a general real estate appraiser or as a residential real estate appraiser, licensure as a residential real estate appraiser, or registration as a real estate appraiser assistant and be accompanied by the prescribed examination and certification, registration, or licensure fees set forth in section 4763.09 of the Revised Code. The application also shall include a fingerprint of the applicant; a pledge, signed by the applicant, that the applicant will comply with the standards set forth in this chapter ; and a statement that the applicant understands the types of misconduct for which disciplinary proceedings may be initiated against the applicant pursuant to this chapter.

(b) Upon the filing of an application and payment of any examination and certification, registration, or licensure fees, the superintendent of real estate shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints in accordance with division (A)(11) of section 109.572 of the Revised Code. Notwithstanding division (J) of section 121.08 of the Revised Code, the superintendent of real estate shall request that criminal record information from the federal bureau of investigation be obtained

as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the applicant.

(2) For purposes of providing funding for the real estate appraiser recovery fund established by section 4763.16 of the Revised Code, the real estate appraiser board shall levy an assessment against each person issued an initial certificate, registration, or license and against current licensees, registrants, and certificate holders, as required by board rule. The assessment is in addition to the application and examination fees for initial applicants required by division (A)(1) of this section and the renewal fees required for current certificate holders, registrants, and licensees. The superintendent of real estate shall deposit the assessment into the state treasury to the credit of the real estate appraiser recovery fund. The assessment for initial certificate holders, registrants, and licensees shall be paid prior to the issuance of a certificate, registration, or license, and for current certificate holders, registrants, and licensees, at the time of renewal.

(B) An applicant for an initial general real estate appraiser certificate shall possess at least thirty months of experience in real estate appraisal, or any equivalent experience the board prescribes. An applicant for a residential real estate appraiser certificate or residential real estate appraiser license shall possess at least two years of experience in real estate appraisal, or any equivalent experience the board prescribes. In addition to any other information required by the board, the applicant shall furnish, under oath, a detailed listing of the appraisal reports or file memoranda for each year for which experience is claimed and, upon request of the superintendent or the board, shall make available for examination a sample of the appraisal reports prepared by the applicant in the course of the applicant's practice.

(C)(1) Except as provided in division (C)(2) of this section, an applicant for an initial certificate, registration, or license shall be at least eighteen years of age, honest, truthful, and of good reputation and shall present satisfactory evidence to the superintendent of the following, as appropriate:

(a) If the applicant is seeking a state-certified general real estate appraiser certificate, that the applicant has successfully completed at least one hundred sixty-five classroom hours of courses in subjects related to real estate appraisal, including at least one course devoted exclusively to federal, state, and municipal fair housing law, presented by a nationally recognized appraisal organization, an institution of higher education, a career school registered by the state board of career colleges and schools, a state or federal commission or agency, or any other organization that represents the interests of financial institutions or real estate brokers, appraisers, or agents and that provides appraisal education, plus fifteen classroom hours related to standards of professional practice and the provisions of this chapter;

(b) If the applicant is seeking a state-certified residential real estate appraiser certificate, that the applicant has successfully completed at least one hundred five classroom hours of courses in subjects related to real estate

appraisal, including at least one course devoted exclusively to federal, state, and municipal fair housing law, presented by a nationally recognized appraisal organization, an institution of higher education, a career school registered by the state board of career colleges and schools, or any other organization that represents the interests of financial institutions or real estate brokers, appraisers, or agents and that provides appraisal education, plus fifteen classroom hours related to standards of professional practice and the provisions of this chapter;

(c) If the applicant is seeking a state-licensed residential real estate appraiser license, that the applicant has successfully completed at least seventy-five classroom hours of courses in subjects related to real estate appraisal, including at least one course devoted exclusively to federal, state, and municipal fair housing law, presented by a nationally recognized appraisal organization, an institution of higher education, a career school registered by the state board of career colleges and schools, a state or federal commission or agency, or any other organization that represents the interests of financial institutions or real estate brokers, appraisers, or agents and that provides appraisal education, plus fifteen classroom hours related to standards of professional practice and the provisions of this chapter;

(d) If the applicant is seeking a state-registered real estate appraiser assistant registration, that the applicant has successfully completed at least seventy-five classroom hours of courses in subjects related to real estate appraisal, including at least one course devoted exclusively to federal, state, and municipal fair housing law, presented by a nationally recognized appraisal organization, an institution of higher education, a career school registered by the state board of career colleges and schools, or any other organization that represents the interests of financial institutions or real estate brokers, appraisers, or agents, and that provides appraisal education that included at least fifteen classroom hours of instruction related to standards of professional practice and the requirements of this chapter and the rules adopted under this chapter.

(2) Each person who files an application for an initial certificate or license within one year of the date established by the board as the first date on which applications will be accepted under this section, which date shall be no later than September 1, 1990, and who, at the time of filing that application, does not satisfy the educational requirements for the certification or licensure sought of either division (C)(1)(a) or (b) of this section is exempt from those educational requirements for the term of the initial certification or licensure. In applying for a renewal certificate or license pursuant to section 4763.06 of the Revised Code, a certificate holder or licensee who was exempted from the educational requirements of division (C)(1)(a) or (b) of this section when applying for the initial certificate or license shall present satisfactory evidence to the superintendent that the certificate holder or licensee has completed the educational requirements for the certification or licensure to be renewed of one of those divisions before the renewal certificate or license may be issued.

(D) An applicant for an initial general real estate appraiser or residential

real estate appraiser certificate or residential real estate appraiser license shall take and successfully complete a written examination in order to qualify for the certificate or license. The examination shall require the applicant to demonstrate all of the following:

- (1) Appropriate knowledge of technical terms commonly used in or related to real estate appraising, appraisal report writing, and the economic concepts applicable to real estate;
- (2) Understanding of the principles of land economics, real estate appraisal processes, and problems likely to be encountered in gathering, interpreting, and processing of data in carrying out appraisal disciplines;
- (3) Understanding of the standards for the development and communication of real estate appraisals as provided in this chapter and the rules adopted thereunder;
- (4) Knowledge of theories of depreciation, cost estimating, methods of capitalization, direct sales comparison, and the mathematics of real estate appraisal that are appropriate for the certification or licensure for which the applicant has applied;
- (5) Knowledge of other principles and procedures as appropriate for the certification or license;
- (6) Basic understanding of real estate law;
- (7) Understanding of the types of misconduct for which disciplinary proceedings may be initiated against a certificate holder and licensee.

(E)(1) A nonresident, natural person of this state who has complied with this section may obtain a certificate, registration, or license. The board shall adopt rules relating to the certification, registration, and licensure of a nonresident applicant whose state of residence the board determines to have certification, registration, or licensure requirements that are substantially similar to those set forth in this chapter and the rules adopted thereunder.

(2) The board shall recognize on a temporary basis a certification or license issued in another state and shall register on a temporary basis an appraiser who is certified or licensed in another state if all of the following apply:

- (a) The temporary registration is to perform an appraisal assignment that is part of a federally related transaction ;
- (b) The appraiser's business in this state is of a temporary nature ;
- (c) The appraiser registers with the board pursuant to this division.

An appraiser who is certified or licensed in another state shall register with the board for temporary practice before performing an appraisal assignment in this state in connection with a federally related transaction.

The board shall adopt rules relating to registration for the temporary recognition of certification and licensure of appraisers from another state. The registration for temporary recognition of certified or licensed appraisers from another state shall not authorize completion of more than one appraisal assignment in this state. The board shall not issue more than two registrations for temporary practice to any one applicant in any calendar year.

(3) In addition to any other information required to be submitted with the nonresident applicant's or appraiser's application for a certificate, registration, license, or temporary recognition of a certificate or license, each nonresident applicant or appraiser shall submit a statement consenting to the service of process upon the nonresident applicant or appraiser by means of delivering that process to the secretary of state if, in an action against the applicant, certificate holder, registrant, or licensee arising from the applicant's, certificate holder's, registrant's, or licensee's activities as a certificate holder, registrant, or licensee, the plaintiff, in the exercise of due diligence, cannot effect personal service upon the applicant, certificate holder, registrant, or licensee.

(F) The superintendent shall not issue a certificate, registration, or license to, or recognize on a temporary basis an appraiser from another state that is a corporation, partnership, or association. This prohibition shall not be construed to prevent a certificate holder or licensee from signing an appraisal report on behalf of a corporation, partnership, or association.

(G) Every person licensed, registered, or certified under this chapter shall notify the superintendent, on a form provided by the superintendent, of a change in the address of the licensee's, registrant's, or certificate holder's principal place of business or residence within thirty days of the change. If a licensee's, registrant's, or certificate holder's license, registration, or certificate is revoked or not renewed, the licensee, registrant, or certificate holder immediately shall return the annual and any renewal certificate, registration, or license to the superintendent.

(H) (1) The superintendent shall not issue a certificate, registration, or license to any person, or recognize on a temporary basis an appraiser from another state, who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(2) The superintendent shall not issue a general real estate appraiser certificate, residential real estate appraiser certificate, residential real estate appraiser license, or real estate appraiser assistant registration to any person who has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities, including a violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to such an offense. However, if the applicant has pleaded guilty to or been convicted of such an offense, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the evidence, that the

applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.

**Sec. 4763.06 .** (A) A person licensed, registered, or certified under this chapter may obtain a renewal certificate, registration, or license by filing a renewal application with and paying the renewal fee set forth in section 4763.09 of the Revised Code and any amount assessed pursuant to division (A)(2) of section 4763.05 of the Revised Code to the superintendent of real estate. The renewal application shall include a statement, signed by the certificate holder, registrant, or licensee, that the certificate holder, registrant, or licensee has not, during the immediately preceding twelve-month period, been convicted of or pleaded guilty to any criminal offense described in division (H)(2) of section 4763.05 of the Revised Code. The certificate holder, registrant, or licensee shall file the renewal application at least thirty days, but no earlier than one hundred twenty days, prior to expiration of the certificate holder's, registrant's, or licensee's current certificate, registration, or license. A certificate holder or licensee who applies for a renewal certificate or license who, pursuant to division (C)(2) of section 4763.05 of the Revised Code, was exempted from the educational requirements of division (C)(1) of that section during the term of the initial certificate or license, as a condition of renewal, also shall present satisfactory evidence of having completed the appropriate educational requirements of either division (C)(1)(a) or (b) of that section since the effective date of the initial certificate or license.

(B) A certificate holder, registrant, or licensee who fails to renew a certificate, registration, or license prior to its expiration is ineligible to obtain a renewal certificate, registration, or license and shall comply with section 4763.05 of the Revised Code in order to regain his certification or licensure, except that a certificate holder, registrant, or licensee may, within three months after the expiration of the certificate holder's, registrant's, or licensee's certificate, registration, or license, renew the certificate, registration, or license without having to comply with section 4763.05 of the Revised Code by payment of all fees for renewal and payment of the late filing fee set forth in section 4763.09 of the Revised Code. A certificate holder, registrant, or licensee who applies for late renewal of the certificate holder's, registrant's, or licensee's certificate, registration, or license may engage in all activities permitted by the certification, registration, or license being renewed for the three-month period following the certificate's, registration's, or license's normal expiration date.

**Sec. 4763.12 .** (A) A person licensed or certified under this chapter may be retained or employed to act as a disinterested third party in rendering an unbiased valuation or analysis of real estate or to provide specialized services to facilitate the client or employer's objectives. An appraisal or appraisal report rendered by a certificate holder or licensee shall comply with this chapter. A certified appraisal or certified appraisal report represents to the public that it satisfies the standards set forth in this chapter.

(B) No certificate holder or licensee shall accept a fee for an appraisal

assignment that is contingent, in whole or in part, upon the reporting of a predetermined estimate, analysis, or opinion or upon the opinion, conclusion, or valuation reached, or upon consequences resulting from the appraisal assignment. A certificate holder or licensee who enters into an agreement to provide specialized services may charge a fixed fee or a fee that is contingent upon the results achieved by the specialized services, provided that this fact is clearly stated in each oral report rendered pursuant to the agreement, and the existence of the contingent fee arrangement is clearly stated in a prominent place on each written report and in each letter of transmittal and certification statement made by the certificate holder or licensee within that report.

(C) Every written report rendered by a certificate holder or licensee in conjunction with an appraisal assignment or specialized service performed shall include the following information:

- (1) The name of the certificate holder or licensee;
- (2) The class of certification or licensure held by and the certification or licensure number of the certificate holder or licensee;
- (3) Whether the appraisal or specialized service is performed within the scope of the certificate holder's or licensee's certification or licensure;
- (4) Whether the appraisal or specialized service is provided by a certificate holder or licensee as a disinterested and unbiased third party or as a person on an interested and biased basis or as an interested third party on a contingent fee basis;
- (5) The signature of the person preparing and reporting the appraisal or specialized service.

If the certificate holder or licensee provides an oral real estate appraisal or specialized service, the certificate holder or licensee shall send, within seven days of providing the oral report, a form to the client containing the appropriate information specified in this division and the rules adopted pursuant ~~thereto~~ to this division.

(D) Nothing in this chapter shall be construed as requiring a certificate holder or licensee to provide a client with a copy of any writing prepared in support of an oral appraisal report except as provided in division (C) of this section or as agreed to between the certificate holder or licensee and the certificate holder's or licensee's client.

(E) No person, directly or indirectly, shall knowingly compensate, instruct, induce, coerce, or intimidate, or attempt to compensate, instruct, induce, coerce, or intimidate, a certificate holder or licensee for the purpose of corrupting or improperly influencing the independent judgment of the certificate holder or licensee with respect to the value of the dwelling offered as security for repayment of a mortgage loan.

**Sec. 4763.13 .** (A) In engaging in appraisal activities, a person certified,

registered, or licensed under this chapter shall comply with the applicable standards prescribed by the board of governors of the federal reserve system, the federal deposit insurance corporation, the comptroller of the currency, the office of thrift supervision, the national credit union administration, and the resolution trust corporation in connection with federally related transactions under the jurisdiction of the applicable agency or instrumentality. A certificate holder, registrant, and licensee also shall comply with the uniform standards of professional appraisal practice, as adopted by the appraisal standards board of the appraisal foundation and such other standards adopted by the real estate appraiser board, to the extent that those standards do not conflict with applicable federal standards in connection with a particular federally related transaction.

(B) The terms "state-licensed residential real estate appraiser," "state-certified residential real estate appraiser," "state-certified general real estate appraiser," and "state-registered real estate appraiser assistant" shall be used to refer only to those persons who have been issued the applicable certificate, registration, or license or renewal certificate, registration, or license pursuant to this chapter. None of these terms shall be used following or in connection with the name or signature of a partnership, corporation, or association or in a manner that could be interpreted as referring to a person other than the person to whom the certificate, registration, or license has been issued. No person shall fail to comply with this division.

(C) No person, other than a certificate holder, a registrant, or a licensee, shall assume or use a title, designation, or abbreviation that is likely to create the impression that the person possesses certification, registration, or licensure under this chapter, provided that professional designations containing the term "certified appraiser" and being used on or before July 26, 1989, shall not be construed as being misleading under this division. No person other than a person certified or licensed under this chapter shall describe or refer to an appraisal or other evaluation of real estate located in this state as being certified.

(D) The terms "state-certified or state-licensed real estate appraisal report," "state-certified or state-licensed appraisal report," or "state-certified or state-licensed appraisal" shall be used to refer only to those real estate appraisals conducted by a certificate holder or licensee as a disinterested and unbiased third party provided that the certificate holder or licensee provides certification with the appraisal and provided further that if a licensee is providing the appraisal, such terms shall only be used if the licensee is acting within the scope of the licensee's license. No person shall fail to comply with this division.

(E) Nothing in this chapter shall preclude a partnership, corporation, or association which employs or retains the services of a certificate holder or licensee to advertise that the partnership, corporation, or association offers state-certified or state-licensed appraisals through a certificate holder or licensee if the advertisement clearly states such fact in accordance with guidelines for such advertisements established by rule of the real estate appraiser board.

(F) ~~Nothing~~ Except as otherwise provided in section 4763.19 of the



Revised Code, nothing in this chapter shall preclude a person who is not licensed or certified under this chapter from appraising real estate for compensation.

**Sec. 4763.19 .** (A) Subject to division (B) of this section, no person shall perform a real estate appraisal for a mortgage loan if the person is not licensed or certified under this chapter to do the appraisal.

(B) Division (A) of this section does not apply to a lender using a market analysis or price opinion, an internal valuation analysis, or an automated valuation model or report based on an automated valuation model, and any person providing that report to the lender, in performing a valuation for purposes of a loan application, as long as the lender does both of the following:

(1) Gives the consumer loan applicant a copy of any written market analysis or price opinion or valuation report based on an automated valuation model;

(2) Includes a disclaimer on the consumer's copy specifying that the valuation used for purposes of the application was obtained from a market analysis or price opinion or automated valuation model report and not from a person licensed or certified under this chapter.

**Sec. 4763.99 .** (A) Whoever violates division (B) of section 4763.12 or , division (B), (C), or (D) of section 4763.13 , or section 4763.19 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (E) of section 4763.12 of the Revised Code is guilty of a felony of the fifth degree.

**Section 2 .** That existing sections 109.572, 1321.57, 1322.02, 1322.03, 1322.031, 1322.04, 1322.041, 1322.051, 1322.06, 1322.061, 1322.062, 1322.07, 1322.10, 1322.11, 1322.99, 1343.011, 1345.01, 1345.02, 1345.03, 1345.05, 1345.07, 1345.09, 1349.25, 1349.27, 1349.31, 3953.23, 4735.05, 4763.03, 4763.05, 4763.06, 4763.12, 4763.13, and 4763.99 of the Revised Code are hereby repealed.

**Section 3 .** (A) Sections 1 and 2 of this act shall take effect January 1, 2007.

(B) It is the intent of the General Assembly that the Attorney General, upon this act's effective date, begin the rulemaking process for purposes of division (B) of section 1345.031 of the Revised Code, as enacted by this act. Rules so adopted by the Attorney General shall not, however, take effect until January 1, 2007."

Managers on the Part of the  
Senate/s/ JOY PADGETT  
JOY PADGETT/s/ JOHN A. CAREY, JR.  
JOHN A. CAREY, JR./s/ TOM ROBERTS  
TOM ROBERTSManagers on the Part of the  
House of Representatives/s/ CHRIS WIDENER  
CHRIS WIDENER/s/ MARK D. WAGONER, JR.  
MARK D. WAGONER, JR./s/ DAN STEWART  
DAN STEWART

The question being, "Shall the report of the Committee of Conference be agreed to?"

The yeas and nays were taken and resulted - yeas 30, nays 3, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Kearney	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Wilson
Zurz			Harris-30.

Senators Jordan, Stivers, and Wachtmann voted in the negative-3.

So the report of Committee of Conference was agreed to.

Senator Cates moved to amend the title as follows:

Add the name: "Cates."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Wilson moved to amend the title as follows:

Add the name: "Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Kearney moved to amend the title as follows:

Add the name: "Kearney."

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Senator Miller, D. moved to amend the title as follows:

Add the name: "Miller, D.."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

On the motion of Senator Jacobson the Senate recessed.

The Senate met pursuant to the recess.

Senator Niehaus moved that the Senate advance to the Sixth Order of Business, Bills for Third Consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

### BILLS FOR THIRD CONSIDERATION

**Sub. H. B. No. 197**-Representatives Raussen, Gibbs, McGregor, J., Carmichael, Evans, C., Flowers, Evans, D., Faber, Ujvagi, Koziura, Schaffer, Blasdel, Martin, Beatty, Blessing, Cassell, Collier, DeBose, Distel, Dolan, Domenick, Fessler, Hagan, Hughes, Key, Law, Mason, Miller, Patton, S., Smith, S., Stewart, D., Sykes, Wagoner, White, Williams, Woodard, Yuko Senator Clancy.

To amend sections 111.15, 3702.11, 3702.16, 3702.18, 3727.11, 3727.12, 3727.14, and 3727.16, to amend for the purpose of adopting new section numbers as indicated in parentheses sections 3727.11 (3727.34), 3727.12 (3727.42), 3727.121 (3727.43), 3727.14 (3727.36), and 3727.16 (3727.45), to enact sections 3727.31, 3727.311, 3727.312, 3727.313, 3727.32, 3727.321, 3727.33, 3727.331, 3727.35, 3727.37, 3727.38, 3727.39, 3727.391, 3727.40, 3727.41, and 3727.44, and to repeal sections 3727.13 and 3727.15 of the Revised Code concerning the submission of information by hospitals about their performance in meeting certain measures and their charges for services, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 197**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Coughlin moved to amend the title as follows:

Add the names: "Coughlin, Gardner, Hottinger, Kearney, Miller, D., Mumper, Niehaus, Padgett, Schuler, Stivers, Harris, Zurz, Dann, Fedor, Miller, R., Spada, Fingerhut, Hagan, Prentiss."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. H. B. No. 298**-Representatives Peterson, Daniels, C. Evans, Carano, McGregor, Ujvagi, Combs, Aslanides, Harwood, Seaver, Miller, Latta, Oelslager, Kearns, Setzer, Perry, Seitz, Chandler, Schaffer, S. Patton, Reidelbach, Hughes, Otterman, Willamowski, Hoops, Mason, Allen, Hagan, Wagoner, Redfern, Flowers, Barrett, Book, Cassell, DeBose, Distel, Domenick, Evans, D., Hartnett, Key, Kilbane, Schlichter, Stewart, D., Stewart, J., Sykes, Williams, Yuko, Beatty Senator Miller, D..

To amend sections 4501.21 and 4503.105 and to enact section 4503.493 of the Revised Code to establish an autism awareness license plate and to provide that money from the contributions for the license plates be used to pay for programs and awareness efforts of the Autism Society of Ohio, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 298**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Armbruster moved to amend the title as follows:

Add the names: "Armbruster, Austria, Carey, Clancy, Fedor, Fingerhut, Gardner, Grendell, Hagan, Harris, Hottinger, Jacobson, Kearney, Niehaus, Prentiss, Schuring, Spada, Wilson, Zurz."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**H. B. No. 368**-Representatives Wolpert, Widowfield, Ujvagi, Miller, Evans, D., McGregor, J., Brown, Fende, Patton, S., Flowers, Combs, Evans, C., Seaver, Webster.

To amend section 4399.14 of the Revised Code to remove the prohibition against a minor being in a public dance hall unless accompanied by a parent or legal guardian, was considered the third time.

The question being, "Shall the bill, **H. B. No. 368**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Arnbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Stivers moved to amend the title as follows:

Add the names: "Stivers, Dann, Kearney."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. H. B. No. 375**-Representatives Flowers, McGregor, J., Evans, D., Brown, Willamowski, Allen, Setzer, Patton, T., Stewart, D., Blessing, Cassell, Collier, Combs, Domenick, Fende, Hagan, Hughes, Mitchell, Otterman, Reidelbach, Smith, G., Widener, Williams, Wolpert, Yuko Senators Cates, Kearney, Fedor.

To amend sections 513.10, 749.18, 4765.05, 4765.11, 4765.16, 4766.01, 4766.03, 4766.04, 4766.06, 4766.07, and 4766.17 and to enact sections 4765.101, 4765.102, 4765.111, 4765.112, 4765.113, 4765.114, 4765.115, and 4765.116 of the Revised Code concerning the authority of the State Board of Emergency Medical Services to suspend certificates to practice emergency medical services, revisions to the law governing air medical transportation, and qualifications and residency requirements for members of a municipal hospital board of governors, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 375**, pass?"

Senator Cates moved to amend as follows:

In line 789, strike through "Hobbs"

In line 790, strike through "meter hour reading" and insert "hours on airframe"

In line 979, after "~~One~~" insert "and"; delete the underlined comma

The question being, "Shall the amendment be agreed to?"

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 375**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

The title was agreed to.

**H. B. No. 389**-Representatives Setzer, Yuko, McGregor, J., Wagoner, Fende, Hartnett, Widowfield, Patton, S., Webster, Allen, DeGeeter, Law, Barrett, Brown, Collier, Combs, DeBose, Domenick, Evans, C., Evans, D., Flowers, Hughes, Key, Mason, Otterman, Reidelbach, Sayre Senators Dann, Miller, D., Hagan.

To amend sections 4511.07, 4511.071, 4511.22, 4511.25, 4511.31, 4511.39, 4511.52, 4511.53, 4511.55, 4511.56, and 4511.711 of the Revised Code to revise certain laws as they relate to bicycle operation, was considered the third time.

The question being, "Shall the bill, **H. B. No. 389**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Armbruster moved to amend the title as follows:

Add the names: "Armbruster, Fingerhut, Jacobson, Kearney, Spada."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Am. H. B. No. 393**-Representatives Patton, S., Evans, C., Schlichter, Cassell, McGregor, J., Allen, Gilb, Yuko, Combs, Beatty, Hartnett, Key, Woodard, Widowfield, Redfern, Ujvagi, Driehaus, Miller, DeBose, Flowers, Distel, Carano, Hughes, Reidelbach, Trakas, Law, Hood, Smith, S., Harwood, Strahorn, Wolpert, Boccieri, Oelslager, Willamowski, Skindell, Book, Brown, Otterman, Stewart, D., Sykes, Mitchell, Barrett, Buehrer, Chandler, Coley, Daniels, DeGeeter, Domenick, Faber, Fende, Garrison, Healy, Hoops, Kilbane, Latta, Mason, McGregor, R., Patton, T., Perry, Peterson, Raga, Raussen, Sayre, Schaffer, Schneider, Seaver, Smith, G., Stewart, J., Taylor, Wagoner, White, Williams, Yates Senators Cates, Grendell, Armbruster, Mumper, Niehaus, Schuring, Miller, D., Fedor, Kearney.

To enact section 5.2234 of the Revised Code to designate September 22 as "Emancipation Day, was considered the third time."

The question being, "Shall the bill, **Am. H. B. No. 393**, pass?"

On the motion of Senator Coughlin the Senate recessed.

The Senate met pursuant to the recess.

The question recurred, "Shall the bill, **Am. H. B. No. 393**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Carey moved to amend the title as follows:

Add the names: "Austria, Carey, Dann, Fingerhut, Goodman, Gardner, Hagan, Harris, Jordan, Padgett, Roberts, Zurz, Clancy, Stivers, Miller, R., Jacobson, Hottinger."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. H. B. No. 422**-Representatives Hughes, Flowers, Reidelbach, Latta, Evans, D., Boccieri, Yuko, Chandler, Wolpert, Setzer, Barrett, Williams, Carano, Cassell, Combs, DeBose, Domenick, Evans, C., Fende, Gilb, Hagan, Harwood, Key, McGregor, J., Otterman, Patton, T., Sayre, Smith, G., Stewart, D., Widener Senator Fedor.

To amend sections 149.433, 3301.56, 3313.536, 3314.03, 3737.73, and 3737.99 of the Revised Code to revise and expand the application of laws governing school safety plans and school safety drills, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 422**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.



So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Padgett moved to amend the title as follows:

Add the names: "Coughlin, Kearney, Roberts, Miller, D., Gardner."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. H. B. No. 442**-Representatives Dolan, McGregor, J., Martin, Combs, Law, Patton, S., Miller, Chandler, Wagoner, Oelslager, Coley, Willamowski, Barrett, Beatty, Blessing, Cassell, Collier, Core, DeBose, DeGeeter, Distel, Domenick, Evans, C., Evans, D., Flowers, Garrison, Gibbs, Hagan, Hartnett, Hughes, Key, Mason, McGregor, R., Mitchell, Otterman, Patton, T., Redfern, Reidelbach, Sayre, Schaffer, Schlichter, Schneider, Setzer, Smith, G., Stewart, D., Stewart, J., Strahorn, Taylor, Walcher, Webster, Wolpert, Woodard, Yates, Yuko.

To amend sections 3905.29, 3905.421, 3907.15, 3917.01, 3917.06, 3939.01, 3939.06, 3939.07, 3939.09, and 3941.27 and to enact sections 3905.423, 3905.424, and 3939.11 of the Revised Code to require warranty reimbursement insurance policies for vehicle protection product warranties and reimbursement insurance policies for certain consumer goods service contracts, to require given statements to be included in warranty reimbursement insurance policies and in reimbursement insurance policies for certain consumer goods service contracts, to add conditions related to the issuance of vehicle protection product warranties, to apply the Ohio Consumer Sales Practices Act to the issuance of vehicle protection product warranties and consumer goods service contracts, to make changes regarding the organization and determination of financial capacity of mutual protective associations dealing with property, to require the filing of group life insurance policy forms with the Superintendent of Insurance, to specify that certain waivers of customer obligations are not insurance, to lower the percentage of amounts allocated to certain accounts concerning life insurance policies or annuities that a domestic life insurance company may invest, and to apply that lower percentage for investment to securities issued or guaranteed by the United States, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 442**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss

Roberts  
Stivers

Schuler  
Wachtmann

Schuring  
Wilson

Spada  
Zurz  
Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Stivers moved to amend the title as follows:

Add the names: "Stivers, Kearney, Niehaus, Schuler, Spada."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

**Sub. S. B. No. 131** - Senators Mumper, Dann, Zurz, Schuler  
Representatives Stewart, D., Barrett, Buehrer, Carano, Domenick, Evans, C.,  
Evans, D., Gibbs, Hartnett, Harwood, Hughes, McGregor, J., Oelslager,  
Otterman, Patton, T., Redfern, Reidelbach, Trakas, Ujvagi, Wagoner,  
Williams, Yuko

To amend sections 4301.17, 4301.62, 4301.69, 4301.99, 4303.29, and  
4303.292, to enact section 4301.65, and to repeal section 4303.273 of the  
Revised Code to revise the laws governing liquor control.

As a substitute bill, in which the concurrence of the Senate is requested:

Attest:

Laura P. Clemens,  
Clerk.

Senator Jacobson moved that the amendments of the House of  
Representatives to **Sub. S. B. No. 131** - Senator Mumper et al., be brought up  
for immediate consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question being, "Shall the Senate concur in the amendments of the  
House of Representatives?"

The yeas and nays were taken and resulted - yeas 31, nays 2, as follows:

Those who voted in the affirmative were: Senators

Armbruster	Austria	Carey	Cates
Clancy	Coughlin	Dann	Fedor
Fingerhut	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Kearney
Miller D	Miller R	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

Senators Amstutz and Jordan voted in the negative-2.

So the Senate concurred in the amendments of the House of Representatives.

Senator Spada moved to amend the title as follows:

Add the name: "Spada."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. S. B. No. 88**-Senators Coughlin, Goodman.

To amend section 2305.113 and to enact sections 2339.01 to 2339.16 of the Revised Code to establish a pilot program mandating arbitration for claims of medical negligence prior to the filing of a complaint, to suspend, for nine years, sections 2711.21 to 2711.24 of the Revised Code as the sections apply to medical negligence claims, and to terminate the provisions of this act ten years after the effective date of this act by repealing sections 2339.01, 2339.02, 2339.03, 2339.04, 2339.05, 2339.06, 2339.07, 2339.08, 2339.09, 2339.10, 2339.11, 2339.12, 2339.13, 2339.14, 2339.15, and 2339.16 of the Revised Code on that date, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 88**, pass?"

The yeas and nays were taken and resulted - yeas 23, nays 10, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fingerhut
Gardner	Goodman	Grendell	Hottinger
Jacobson	Jordan	Mumper	Niehaus
Padgett	Schuler	Schuring	Spada
Stivers	Wachtmann		Harris-23.

Those who voted in the negative were: Senators

Dann	Fedor	Hagan	Kearney
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Miller D  
Wilson

Miller R

Prentiss

Roberts  
Zurz-10.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Coughlin moved to amend the title as follows:

Add the names: "Amstutz, Armbruster, Grendell, Harris, Mumper, Padgett, Schuring, Spada, Jacobson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. S. B. No. 126**-Senator Wachtmann.

To amend sections 133.07, 140.03, 140.05, 325.19, 339.01, 339.02, 339.03, 339.06, 339.09, 339.091, 339.14, 339.16, and 339.17 and to repeal section 339.092 of the Revised Code to modify the laws governing county hospitals, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 126**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Wachtmann moved to amend the title as follows:

Add the name: "Stivers."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**S. B. No. 290**-Senators Schuring, Jacobson, Spada, Clancy, Amstutz, Zurz, Dann, Kearney.

To amend section 2913.02 of the Revised Code to authorize a definite jail

term of not more than one year for petty theft if the offender, within five years of the offense, previously has been convicted of two or more offenses of theft, was considered the third time.

The question being, "Shall the bill, **S. B. No. 290**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wilson	Zurz	Harris-32.

Senator Wachtmann voted in the negative-1.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Schuring moved to amend the title as follows:

Add the names: "Armbruster, Grendell, Harris, Padgett."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**Sub. S. B. No. 305**-Senators Stivers, Goodman.

To amend sections 3731.01, 3731.02, 3731.09, 3731.12, 3731.13, and 3731.21 and to enact section 3731.04 of the Revised Code to modify requirements applied to differing types of hotels and to specify duties of local boards of health regarding sanitary standards applicable to hotels, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 305**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Stivers moved to amend the title as follows:

Add the names: "Dann, Kearney, Wachtmann."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

**S. B. No. 330**-Senators Schuler, Armbruster, Austria, Cates, Clancy, Dann, Fingerhut, Miller, D., Spada, Wachtmann, Zurz, Niehaus, Schuring, Fedor.

To enact section 5.2234 of the Revised Code to designate October as "German Heritage Month, was considered the third time."

The question being, "Shall the bill, **S. B. No. 330**, pass?"

Senator Schuler moved to amend as follows:

In line 3, delete "5.2234" and insert "5.2235"

In line 5, delete "5.2234," and insert "5.2235."

In line 1 of the title, delete "5.2234" and insert "5.2235"

The question being, "Shall the amendment be agreed to?"

The amendment was agreed to.

The question recurred, "Shall the bill, **S. B. No. 330**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Schuler moved to amend the title as follows:

Add the names: "Gardner, Hagan, Kearney, Wilson, Stivers, Mumper."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

### MOTIONS

Senator Hottinger moved that Senators absent the week of Sunday, May 21, 2006, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

### OFFERING OF RESOLUTIONS

Senator Dann offered the following resolution:

**S. R. No. 212**-Senators Dann, Fingerhut, Kearney, Grendell, Carey, Wachtmann, Hagan, Armbruster, Miller, D., Miller, R., Jacobson, Jordan, Gardner, Fedor.

To recognize the fiftieth anniversary of the Hungarian Revolution, the sacrifices of the Hungarian Freedom Fighters, the contributions that Hungarian Americans have made to Ohio and America, and the one hundredth anniversary of the American Hungarian Federation, and to urge all Ohioans to honor and commemorate the contributions of Hungarian Americans.

The question being, "Shall the resolution, **S. R. No. 212**, be adopted?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the resolution was adopted.

The question being, "Shall the title be agreed to?"

Senator Dann moved to amend the title as follows:

Add the names: "Amstutz, Austria, Cates, Clancy, Harris, Mumper, Padgett, Roberts, Schuring, Zurz, Coughlin, Spada, Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Senator Harris offered the following resolution:

**S. R. No. 213**-Senator Harris.

Honoring the MindStorm Troopers robotics team on winning second place in the 2006 FIRST LEGO League World Festival.

The question being, "Shall the resolution, **S. R. No. 213**, be adopted?"

So the resolution was adopted.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has agreed to the report of the Committee of Conference on matters of difference between the two houses on:

**Am. Sub. S. B. No. 185** - Senator Padgett- et al.

Attest:

Laura P. Clemens,  
Clerk.

On the motion of Senator Jacobson, the Senate adjourned until Thursday, May 25, 2006 at 11:00 o'clock a.m.

Attest:

DAVID A. BATTOCLETTI,  
Clerk.