

# AN ACT

To amend sections 9.02, 109.572, 1181.21, 1181.25, 1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 1321.58, 1321.59, 1321.60, 1321.631, 1321.72, 1321.99, 1322.01, 1322.02, 1322.021, 1322.023, 1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 1322.041, 1322.042, 1322.043, 1322.05, 1322.051, 1322.052, 1322.06, 1322.061, 1322.065, 1322.07, 1322.072, 1322.073, 1322.074, 1322.075, 1322.081, 1322.09, 1322.10, 1322.11, 1322.12, 1322.99, 1329.71, 1335.02, 1345.01, 1349.27, 1349.43, 1349.44, 1349.45, 1349.99, 2923.31, 4712.01, 4719.01, 4728.11, 4735.05, and 4763.03; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 1322.02 (1322.07), 1322.021 (1322.16), 1322.023 (1322.05), 1322.024 (1322.02), 1322.025 (1322.55), 1322.03 (1322.09), 1322.031 (1322.20), 1322.04 (1322.10), 1322.041 (1322.21), 1322.042 (1322.24), 1322.043 (1322.25), 1322.05 (1322.32), 1322.051 (1322.27), 1322.052 (1322.28), 1322.06 (1322.34), 1322.061 (1322.36), 1322.065 (1322.17), 1322.07 (1322.40), 1322.072 (1322.35), 1322.073 (1322.15), 1322.074 (1322.41), 1322.075 (1322.42), 1322.081 (1322.45), 1322.09 (1322.46), 1322.10 (1322.50), 1322.101 (1322.51), 1322.11 (1322.52), and 1322.12 (1322.57); to enact new sections 1322.04 and 1322.12 and sections 1322.29, 1322.30, 1322.43, and 1322.56; and to repeal sections 1321.521, 1321.522, 1321.531, 1321.532, 1321.533, 1321.534, 1321.535, 1321.536, 1321.537, 1321.538, 1321.552, 1321.592, 1321.593, 1321.594, 1322.022, 1322.062, 1322.063, 1322.064, 1322.071, and 1322.08 of the Revised Code to create the Ohio Residential Mortgage Lending Act for the purpose of regulating all non-depository lending secured by residential real estate, to limit the application of the current Mortgage Loan Law to unsecured loans and loans secured by other than residential real estate, and to modify an exemption to the Ohio Consumer Installment Loan Act.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 9.02, 109.572, 1181.21, 1181.25, 1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 1321.58, 1321.59, 1321.60, 1321.631, 1321.72, 1321.99, 1322.01, 1322.02, 1322.021, 1322.023, 1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 1322.041, 1322.042, 1322.043, 1322.05, 1322.051, 1322.052, 1322.06,

1322.061, 1322.065, 1322.07, 1322.072, 1322.073, 1322.074, 1322.075, 1322.081, 1322.09, 1322.10, 1322.11, 1322.12, 1322.99, 1329.71, 1335.02, 1345.01, 1349.27, 1349.43, 1349.44, 1349.45, 1349.99, 2923.31, 4712.01, 4719.01, 4728.11, 4735.05, and 4763.03 be amended; sections 1322.02 (1322.07), 1322.021 (1322.16), 1322.023 (1322.05), 1322.024 (1322.02), 1322.025 (1322.55), 1322.03 (1322.09), 1322.031 (1322.20), 1322.04 (1322.10), 1322.041 (1322.21), 1322.042 (1322.24), 1322.043 (1322.25), 1322.05 (1322.32), 1322.051 (1322.27), 1322.052 (1322.28), 1322.06 (1322.34), 1322.061 (1322.36), 1322.065 (1322.17), 1322.07 (1322.40), 1322.072 (1322.35), 1322.073 (1322.15), 1322.074 (1322.41), 1322.075 (1322.42), 1322.081 (1322.45), 1322.09 (1322.46), 1322.10 (1322.50), 1322.101 (1322.51), 1322.11 (1322.52), and 1322.12 (1322.57) be amended for the purpose of adopting new section numbers as shown in parentheses; and new sections 1322.04 and 1322.12 and sections 1322.29, 1322.30, 1322.43, and 1322.56 of the Revised Code be enacted to read as follows:

Sec. 9.02. (A) As used in this section:

(1) "Customer" means any person or authorized representative of that person who has maintained or is maintaining an account or deposit of any type, or has utilized or is utilizing any service of a financial institution, or for whom a financial institution has acted or is acting as a fiduciary in relation to an account or deposit maintained in the person's name.

(2) "Governmental authority" includes the state, any political subdivision, district, or court, and any agency, department, officer, or authorized employee of any of those entities.

(3) "Financial institution" means any bank, building and loan association, trust company, credit union, licensee as defined in section 1321.01, ~~or~~ registrant as defined in section 1321.51 of the Revised Code, or person registered as a mortgage lender under Chapter 1322. of the Revised Code.

(4) "Financial record" means any record, including statements or receipts, and checks, drafts, or similar instruments, or information derived from such record, that is maintained by a financial institution and that pertains to a deposit or account of a customer, a service of the financial institution utilized by a customer, or any other relationship between a customer and the financial institution.

(5) "Supervisory review" means any examination of or other supervisory action with respect to a financial institution, where such examination or action is conducted or taken pursuant to authority granted under the Revised Code, or rules promulgated pursuant thereto by the agency having regulatory jurisdiction over such institution.

(B) Any party, including a governmental authority, that requires or requests a financial institution to assemble or provide a customer's financial records in connection with any investigation, action, or proceeding shall pay the financial institution for all actual and necessary costs directly incurred in searching for, reproducing, or transporting these records, if the financial institution is not a party to the investigation, action, or proceeding, is not a subject of supervisory review in the investigation, action, or proceeding, or is a party to the investigation, action, or proceeding solely by reason of its holding of assets of another party defendant, with no cause of action alleged against the financial institution. This payment shall be made to the financial institution promptly, whether or not the financial records are entered into evidence. If the records are produced pursuant to a court order or subpoena duces tecum, the party requesting the order or subpoena is responsible for making the payment. With respect to any judicial or administrative proceeding for which the records are requested, payment of these costs shall be in addition to any witness fees.

(C) The rates and conditions for making payments required by division (B) of this section shall be established by rule by the superintendent of financial institutions. To the extent that they are applicable, such respective rules shall be substantially like those adopted by the board of governors of the federal reserve system to regulate similar fees required by the "Right to Financial Privacy Act of 1978," 92 Stat. 3708, 12 U.S.C.A. 3415.

(D)(1) This section is not intended to expand, limit, or otherwise affect any authority granted under federal law or the law of this state to any party, including a governmental authority, to procure, request, or require a customer's financial records. This section does not apply to investigations or examinations conducted under authority granted by Chapter 169., 1707., 3737., or 4735. of the Revised Code.

(2) Division (B) of this section does not apply to financial records required to be assembled or provided pursuant to a subpoena, demand for production, request for records, or demand for inspection issued by or on motion of the attorney general or the organized crime investigations commission, to a subpoena issued by or on motion of a prosecuting attorney who has probable cause to believe that a crime has been committed, or to a subpoena issued by a grand jury, if all of the following apply:

(a) The financial records or copies of the financial records are subpoenaed for purposes of a criminal investigation or prosecution;

(b) The subpoena is delivered to the financial institution at least ten days before the records are to be provided;

(c) The subpoena identifies individual items to be provided or is for statements of the customer's account for a specified period of time but only as is relevant to the possible crime being investigated.

If any financial record assembled or provided by a financial institution pursuant to such a subpoena or any information derived from the financial record is introduced as evidence in any criminal trial and if any nonindigent defendant is convicted of an offense at that trial, the trial court shall charge against the defendant, as a cost of prosecution, all actual and necessary costs directly incurred by the financial institution in searching for, reproducing, or transporting the financial records provided the financial institution is not a defendant at the trial. A defendant against whom costs are charged pursuant to this division shall pay the costs to the court which shall forward the payment to the financial institution. For purposes of this division, the trial court shall determine whether a defendant is indigent. The rates of payment established by rule pursuant to division (C) of this section shall be used by the trial court in charging costs under this division.

(E) Notwithstanding division (D) of this section, in any proceeding, action, or investigation that involves an alleged violation of section 2921.02, 2921.41, 2921.42, or 2921.43 of the Revised Code, that either involves a property interest of the state or occurred within the scope of state employment or during the performance of a state public official's or state public servant's duties, and in which a financial institution is required or requested to assemble or provide financial records, the financial institution has a right of reimbursement from the state treasury for all actual and necessary costs incurred in searching for, reproducing, or transporting the financial records, at the rates established by rule under division (C) of this section. The reimbursement shall be made only if the financial institution is not a party to, or subject of the investigation, action, or proceeding, or is a

party to the investigation, action, or proceeding solely by reason of its holding assets of another party defendant, with no cause of action alleged against the financial institution, and only if the financial institution has not acted negligently in the management of the deposit, account, service, or other relationship to which those financial records pertain. The reimbursement shall be made promptly, whether or not the financial records are entered into evidence. As used in this division, "state" means only the state of Ohio and does not include any political subdivision.

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to section 121.08, 3301.32, 3301.541, or 3319.39 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;

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

(2) On receipt of a request pursuant to section 3712.09 or 3721.121 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)(2)(a) of this section.

(3) On receipt of a request pursuant to section 173.27, 173.38, 173.381, 3701.881, 5164.34, 5164.341, 5164.342, 5123.081, or 5123.169 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 of the person for whom the request is made. 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, has pleaded guilty to, or (except in the case of a request pursuant to section 5164.34, 5164.341, or 5164.342 of the Revised Code) has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or (except in the case of a request pursuant to section 5164.34, 5164.341, or 5164.342 of the Revised Code) the date the person was found eligible for intervention in lieu of conviction:

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

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

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

(d) A violation of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A)(3)(a) to (c) of this section;

(e) A violation of 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 divisions (A)(3)(a) to (d) of this section.

(4) On receipt of 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 959.13, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, 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, two or more OVI or OVUAC violations committed within the three years immediately preceding the submission of the application or petition that is the basis of the request, 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)(4)(a) of this section.

(5) Upon receipt of a request pursuant to section 5104.013 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 has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2151.421, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.32, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.19, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.04, 2909.05, 2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.22, 2919.224, 2919.225, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.14, 2921.34, 2921.35, 2923.01, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, a violation of section 2923.02 or 2923.03 of the Revised Code that relates to a crime specified in this division, or a second violation of section 4511.19 of the Revised Code within five years of the date of application for

licensure or certification.

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

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

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 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)(6)(a) of this section.

(7) 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. Subject to division (F) 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.

(8) On receipt of a request pursuant to section 1321.37, 1321.53, ~~1321.531, 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.

(9) On receipt of a request for a criminal records check from the treasurer of state under section 113.041 of the Revised Code or from an individual under section 4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4747.051, 4753.061, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4774.031, 4774.06, 4776.021, 4778.04, 4778.07, 4779.091, or 4783.04 of the Revised Code, accompanied by a completed form prescribed under 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 has been convicted of or pleaded guilty to any criminal offense in this state or any other state. Subject to division (F) of this section, the superintendent shall send the results of a check requested under section 113.041 of the Revised Code to the treasurer of state and shall send the results of a check requested under any of the other listed sections to the licensing board specified by the individual in the request.

(10) On receipt of a request pursuant to section 1121.23, 1315.141, 1733.47, or 1761.26 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 criminal offense under any existing or former law of this state, any other state, or the United States.

(11) On receipt of a request for a criminal records check from an appointing or licensing authority under section 3772.07 of the Revised Code, a completed form prescribed under division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner prescribed 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 or no contest to any offense under any existing or former law of this state, any other state, or the United States that is a disqualifying offense as defined in section 3772.07 of the Revised Code or substantially equivalent to such an offense.

(12) On receipt of a request pursuant to section 2151.33 or 2151.412 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 for whom a criminal records check is required under that section. 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)(12)(a) of this section.

(13) On receipt of a request pursuant to section 3796.12 of the Revised Code, a completed form prescribed pursuant to 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 that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to the following:

(a) A disqualifying offense as specified in rules adopted under division (B)(2)(b) of section 3796.03 of the Revised Code if the person who is the subject of the request is an administrator or other person responsible for the daily operation of, or an owner or prospective owner, officer or prospective officer, or board member or prospective board member of, an entity seeking a license from the department of commerce under Chapter 3796. of the Revised Code;

(b) A disqualifying offense as specified in rules adopted under division (B)(2)(b) of section 3796.04 of the Revised Code if the person who is the subject of the request is an administrator or other person responsible for the daily operation of, or an owner or prospective owner, officer or prospective officer, or board member or prospective board member of, an entity seeking a license from the state board of pharmacy under Chapter 3796. of the Revised Code.

(14) On receipt of a request required by section 3796.13 of the Revised Code, a completed form prescribed pursuant to 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 that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to the following:

(a) A disqualifying offense as specified in rules adopted under division (B)(8)(a) of section 3796.03 of the Revised Code if the person who is the subject of the request is seeking employment with an entity licensed by the department of commerce under Chapter 3796. of the Revised Code;

(b) A disqualifying offense as specified in rules adopted under division (B)(14)(a) of section 3796.04 of the Revised Code if the person who is the subject of the request is seeking employment with an entity licensed by the state board of pharmacy under Chapter 3796. of the Revised Code.

(B) Subject to division (F) of this section, the superintendent shall conduct any criminal records check to be conducted under this section 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 criminal records check, including, if the criminal records check was requested under section 113.041, 121.08, 173.27, 173.38, 173.381, 1121.23, 1315.141, 1321.37, 1321.53, ~~1321.531, 1322.03, 1322.031~~, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 3796.12, 3796.13, 4749.03, 4749.06, 4763.05, 5104.013, 5164.34, 5164.341, 5164.342, 5123.081, 5123.169, or 5153.111 of the Revised Code, 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 criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 if the request is made pursuant to section 2151.86 or 5104.013 of the Revised Code or if any other Revised Code section requires fingerprint-based checks of that nature, and shall review or cause to be reviewed any information the superintendent receives from that bureau. If a request under section 3319.39 of the Revised Code asks only for information from the federal bureau of investigation, the superintendent shall not conduct the review prescribed by division (B)(1) of this section.

(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.

(4) The superintendent shall include in the results of the criminal records check a list or description of the offenses listed or described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), or (14) of this section, whichever division requires the superintendent to conduct the criminal records check. The superintendent shall exclude from the results any information the dissemination of which is prohibited by federal law.

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

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

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

(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 to be conducted under this section. 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 to be conducted under this section. Any person for whom a records check is to be conducted under this section 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 under this section. The person requesting the criminal records check shall pay the fee prescribed pursuant to this division. In the case of a request under section 1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, 2151.33, 2151.412, or 5164.34 of the Revised Code, the fee shall be paid in the manner specified in that section.

(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) The results of a criminal records check conducted under this section, other than a criminal records check specified in division (A)(7) of this section, are 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 completes the criminal records check. If during that period the superintendent receives another request for a criminal records check to be conducted under this section for that person, the superintendent shall provide the results from the previous criminal records check of the person at a lower fee than the fee prescribed for the initial criminal records check.

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

(F)(1) Subject to division (F)(2) of this section, all information regarding the results of a criminal records check conducted under this section that the superintendent reports or sends under division (A)(7) or (9) of this section to the director of public safety, the treasurer of state, or the person, board, or entity that made the request for the criminal records check shall relate to the conviction of the subject person, or the subject person's plea of guilty to, a criminal offense.

(2) Division (F)(1) of this section does not limit, restrict, or preclude the superintendent's release of information that relates to the arrest of a person who is eighteen years of age or older, to an adjudication of a child as a delinquent child, or to a criminal conviction of a person under eighteen years of age in circumstances in which a release of that nature is authorized under division (E)(2), (3), or (4) of section 109.57 of the Revised Code pursuant to a rule adopted under division (E)(1) of that section.

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

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

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

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

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

(C) The deputy superintendent for consumer finance shall be the principal supervisor of consumer finance companies. In that position the deputy superintendent for consumer finance shall, notwithstanding section 1321.421, division (A) of section 1321.76, and sections 1321.07, 1321.55, ~~1322.06~~ 1322.34, 4727.05, and 4728.05 of the Revised Code, be responsible for conducting examinations and preparing examination reports under those sections. In addition, the deputy superintendent for consumer finance shall, notwithstanding sections 1315.27, 1321.10, 1321.43, 1321.54, 1321.77, ~~1322.12~~ 1322.57, 4712.14, 4727.13, and 4728.10 of the Revised Code, have the authority to adopt rules and standards in accordance with those sections. In performing or exercising any of the examination, rule-making, or other regulatory functions, powers, or duties vested by this division in the deputy superintendent for consumer finance, the deputy superintendent for consumer finance shall be subject to the control of the superintendent of financial institutions and the director of commerce.

Sec. 1181.25. The superintendent of financial institutions may introduce into evidence or disclose, or authorize to be introduced into evidence or disclosed, information that, under sections 1121.18, 1155.16, 1163.20, 1315.122, 1321.09, 1321.48, 1321.55, 1321.76, ~~1322.06~~ 1322.34, ~~1322.06~~ 1322.36, 1733.32, 1733.327, and 4727.18 of the Revised Code, is privileged, confidential, or otherwise not public information or a public record, provided that the superintendent acts only as provided in those sections or in the following circumstances:

(A) When in the opinion of the superintendent, it is appropriate with regard to any enforcement actions taken and decisions made by the superintendent under Chapters 1315., 1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code or Title XI of the Revised Code;

(B) When litigation has been initiated by the superintendent in furtherance of the powers, duties, and obligations imposed upon the superintendent by Chapters 1315., 1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code or Title XI of the Revised Code;

(C) When in the opinion of the superintendent, it is appropriate with regard to enforcement

actions taken or decisions made by other financial institution regulatory authorities to whom the superintendent has provided the information pursuant to authority in Chapters 1315., 1321., 1322., 1733., 4712., 4727., and 4728. of the Revised Code or Title XI of the Revised Code.

Sec. 1315.21. As used in sections 1315.21 to 1315.30 of the Revised Code:

(A) "Check" means any check, draft, money order, or other instrument for the transmission or payment of money. "Check" does not include a travelers check.

(B) "Check-cashing business" means any person that engages in the business of cashing checks for a fee. "Check-cashing business" does not include any of the following:

(1) A licensee as defined in section 1321.01 of the Revised Code;

(2) A registrant as defined in section 1321.51 of the Revised Code;

(3) A financial institution;

(4) A person that is primarily engaged in the business of selling tangible personal property or services at retail and does not derive more than five per cent of the person's gross income from the cashing of checks;

(5) A person licensed under sections 1315.01 to 1315.18 of the Revised Code, or any agent of that person, to the extent that the person or the agent is engaged in cashing checks or travelers checks issued by the licensed person;

(6) A person registered as a mortgage lender under Chapter 1322. of the Revised Code.

(C) "Financial institution" means any bank, trust company, savings bank, savings and loan association, or credit union, that is incorporated or organized under the laws of the United States or of any state thereof, or of Canada or any province thereof, and subject to regulation or supervision by such country, state, or province.

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

Sec. 1319.12. (A)(1) As used in this section, "collection agency" means any person who, for compensation, contingent or otherwise, or for other valuable consideration, offers services to collect an alleged debt asserted to be owed to another.

(2) "Collection agency" does not mean a person whose collection activities are confined to and directly related to the operation of another business, including, but not limited to, the following:

(a) Any bank, including the trust department of a bank, trust company, savings and loan association, savings bank, credit union, or fiduciary as defined in section 5815.04 of the Revised Code, except those that own or operate a collection agency;

(b) Any real estate broker or real estate salesperson, as defined in section 4735.01 of the Revised Code;

(c) Any retail seller collecting its own accounts;

(d) Any insurance company authorized to do business in this state under Title XXXIX of the Revised Code or a health insuring corporation authorized to operate in this state under Chapter 1751. of the Revised Code;

(e) Any public officer or judicial officer acting under order of a court;

(f) Any licensee as defined either in section 1321.01 or 1321.71 of the Revised Code, ~~or any registrant as defined in section 1321.51 of the Revised Code,~~ or any person registered as a mortgage lender under Chapter 1322. of the Revised Code;

(g) Any public utility;

(h) Any person registered to sell interment rights under section 4767.031 of the Revised Code.

(B) A collection agency with a place of business in this state may take assignment of another person's accounts, bills, or other evidences of indebtedness in its own name for the purpose of billing, collecting, or filing suit in its own name as the real party in interest.

(C) No collection agency shall commence litigation for the collection of an assigned account, bill, or other evidence of indebtedness unless it has taken the assignment in accordance with all of the following requirements:

(1) The assignment was voluntary, properly executed, and acknowledged by the person transferring title to the collection agency.

(2) The collection agency did not require the assignment as a condition to listing the account, bill, or other evidence of indebtedness with the collection agency for collection.

(3) The assignment was manifested by a written agreement separate from and in addition to any document intended for the purpose of listing the account, bill, or other evidence of indebtedness with the collection agency. The written agreement shall state the effective date of the assignment and the consideration paid or given, if any, for the assignment and shall expressly authorize the collection agency to refer the assigned account, bill, or other evidence of indebtedness to an attorney admitted to the practice of law in this state for the commencement of litigation. The written agreement also shall disclose that the collection agency may consolidate, for purposes of filing an action, the assigned account, bill, or other evidence of indebtedness with those of other creditors against an individual debtor or co-debtors.

(4) Upon the effective date of the assignment to the collection agency, the creditor's account maintained by the collection agency in connection with the assigned account, bill, or other evidence of indebtedness was canceled.

(D) A collection agency shall commence litigation for the collection of an assigned account, bill, or other evidence of indebtedness in a court of competent jurisdiction located in the county in which the debtor resides, or in the case of co-debtors, a county in which at least one of the co-debtors resides.

(E) No collection agency shall commence any litigation authorized by this section unless the agency appears by an attorney admitted to the practice of law in this state.

(F) This section does not affect the powers and duties of any person described in division (A) (2) of this section.

(G) Nothing in this section relieves a collection agency from complying with the "Fair Debt Collection Practices Act," 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or deprives any debtor of the right to assert defenses as provided in section 1317.031 of the Revised Code and 16 C.F.R. 433, as amended.

(H) For purposes of filing an action, a collection agency that has taken an assignment or assignments pursuant to this section may consolidate the assigned accounts, bills, or other evidences of indebtedness of one or more creditors against an individual debtor or co-debtors. Each separate assigned account, bill, or evidence of indebtedness must be separately identified and pled in any consolidated action authorized by this section. If a debtor or co-debtor raises a good faith dispute

concerning any account, bill, or other evidence of indebtedness, the court shall separate each disputed account, bill, or other evidence of indebtedness from the action and hear the disputed account, bill, or other evidence of indebtedness on its own merits in a separate action. The court shall charge the filing fee of the separate action to the losing party.

Sec. 1321.02. No person shall engage in the business of lending money, credit, or choses in action in amounts of five thousand dollars or less, or exact, contract for, or receive, directly or indirectly, on or in connection with any such loan, any interest and charges that in the aggregate are greater than the interest and charges that the lender would be permitted to charge for a loan of money if the lender were not a licensee, without first having obtained a license from the division of financial institutions under sections 1321.01 to 1321.19 of the Revised Code.

Sections 1321.01 to 1321.19 of the Revised Code do not apply to any person doing business under and as permitted by any law of this state, another state, or the United States relating to banks, savings banks, savings societies, trust companies, credit unions, savings and loan associations substantially all the business of which is confined to loans on real estate mortgages and evidences of their own indebtedness; to registrants conducting business pursuant to sections 1321.51 to 1321.60 of the Revised Code; to licensees conducting business pursuant to sections 1321.71 to 1321.83 of the Revised Code; to licensees doing business pursuant to sections 1321.35 to 1321.48 of the Revised Code; to registrants conducting business as mortgage lenders under Chapter 1322. of the Revised Code; or to any entity who is licensed pursuant to Title XXXIX of the Revised Code, who makes advances or loans to any person who is licensed to sell insurance pursuant to that Title, and who is authorized in writing by that entity to sell insurance. No person engaged in the business of selling tangible goods or services related thereto may receive or retain a license under sections 1321.01 to 1321.19 of the Revised Code for such place of business.

The first paragraph of this section applies to any person, who by any device, subterfuge, or pretense, charges, contracts for, or receives greater interest, consideration, or charges than that authorized by this section for any such loan or use of money or for any such loan, use, or sale of credit, or who for a fee or any manner of compensation arranges or offers to find or arrange for another person to make any such loan, use, or sale of credit. This section does not preclude the acquiring, directly or indirectly, by purchase or discount, of a bona fide obligation for goods or services when such obligation is payable directly to the person who provided the goods or services.

Any contract of loan in the making or collection of which an act is done by the lender that violates this section is void and the lender has no right to collect, receive, or retain any principal, interest, or charges.

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

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

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

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

(D) "Principal amount" means the amount of cash paid to, or paid or payable for the account of, the borrower, and includes any charge, fee, or expense that is financed by the borrower at

origination of the loan or during the term of the loan.

(E) "Interest" means all charges payable directly or indirectly by a borrower to a registrant as a condition to a loan or an application for a loan, however denominated, but does not include default charges, deferment charges, insurance charges or premiums, court costs, loan origination charges, check collection charges, credit line charges, points, prepayment penalties, or other fees and charges specifically authorized by law.

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

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

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

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

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

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

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

- (1) The principal amount of a precomputed loan or interest-bearing loan;
- (2) The original credit line of an open-end loan.

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

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

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

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



- ~~(a) Takes or offers to take a residential mortgage loan application;~~
- ~~(b) Assists or offers to assist a borrower in obtaining or applying to obtain a residential mortgage loan by, among other things, advising on loan terms, including rates, fees, and other costs;~~
- ~~(c) Offers or negotiates terms of a residential mortgage loan;~~
- ~~(d) Issues or offers to issue a commitment for a residential mortgage loan to a borrower.~~
- ~~(2) "Mortgage loan originator" does not include any of the following:~~
  - ~~(a) An individual who performs purely administrative or clerical tasks on behalf of a mortgage loan originator;~~
  - ~~(b) A person licensed pursuant to Chapter 4735. of the Revised Code, or under the similar law of another state, who performs only real estate brokerage activities permitted by that license, provided the person is not compensated by a mortgage lender, mortgage broker, mortgage loan originator, or by any agent thereof;~~
  - ~~(c) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. 101, in effect on January 1, 2009;~~
  - ~~(d) A person acting solely as a loan processor or underwriter, who does not represent to the public, through advertising or other means of communicating, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the person can or will perform any of the activities of a mortgage loan originator;~~
  - ~~(e) A loan originator licensed under sections 1322.01 to 1322.12 of the Revised Code, when acting solely under that authority;~~
  - ~~(f) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or another mortgage loan originator, or by any agent thereof;~~
  - ~~(g) Any person engaged in the retail sale of manufactured homes, mobile homes, or industrialized units if, in connection with financing those retail sales, the person only assists the borrower by providing or transmitting the loan application and does not do any of the following:~~
    - ~~(i) Offer or negotiate the residential mortgage loan rates or terms;~~
    - ~~(ii) Provide any counseling with borrowers about residential mortgage loan rates or terms;~~
    - ~~(iii) Receive any payment or fee from any company or individual for assisting the borrower obtain or apply for financing to purchase the manufactured home, mobile home, or industrialized unit;~~
    - ~~(iv) Assist the borrower in completing the residential mortgage loan application.~~
- ~~(3) An individual acting exclusively as a servicer engaging in loss mitigation efforts with respect to existing mortgage transactions shall not be considered a mortgage loan originator for purposes of sections 1321.51 to 1321.60 of the Revised Code until July 1, 2011, unless such delay is denied by the United States department of housing and urban development.~~
- ~~(Q) "Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this division, "dwelling" has the same meaning as in the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C. 1602.~~

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

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

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

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

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

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

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

(1) Receiving, collecting, distributing, and analyzing information common for the processing or underwriting of a residential mortgage loan;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(d) Make loans in this state of the type set forth in division (C) of this section that are~~

~~unsecured or are secured by other than real property, which loans are for more than five thousand dollars at a rate of interest greater than permitted by section 1343.01 or other specific provisions of the Revised Code~~ A registrant may make loans, other than a residential mortgage loan as defined in section 1322.01 of the Revised Code, on terms and conditions provided by sections 1321.51 to 1321.60 of the Revised Code.

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

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

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

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

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

(C) A registrant may make unsecured loans, ~~loans secured by a mortgage on a borrower's real estate which is a first lien or other than a first lien on the real estate, and~~ loans secured by other than residential real estate, and loans secured by any combination of mortgages and security interests, on terms and conditions provided by sections 1321.51 to 1321.60 or a dwelling as those terms are defined in section 1322.01 of the Revised Code.

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

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

(3) ~~If a person's registration under sections 1321.51 to 1321.60 of the Revised Code terminates due to nonrenewal or otherwise but the person continues to engage in the business of collecting or servicing non-first lien residential mortgage loans in violation of division (A)(1) of this section, the superintendent of financial institutions may take administrative action, including action on any subsequent application for a certificate of registration. In addition, no late fee, bad check charge except as incurred, charge related to default or cost to realize on its security interest, or prepayment penalty on non-first lien residential mortgage loans shall be collected or retained by a person who is in violation of division (A)(1)(b) of this section for the period of time in which the person was in violation. Nothing in division (D)(3) of this section prevents or otherwise precludes~~

~~any other actions or penalties provided by law or modifies a defense of holder in due course that a subsequent purchaser servicing the residential mortgage loan may raise.~~

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

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

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

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

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

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

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

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

(2) Upon the filing of the application and the payment by the applicant of a nonrefundable two-hundred-dollar investigation fee, and a nonrefundable three-hundred-dollar annual registration fee, ~~and any additional fee required by the nationwide mortgage licensing system and registry,~~ the division shall investigate the relevant facts. If the application involves investigation outside this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual

expenses of such investigation, when it appears that these expenses will exceed two hundred dollars. An itemized statement of any of these expenses which the applicant is required to pay shall be furnished to the applicant by the division. No certificate shall be issued unless all the required fees have been submitted to the division.

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

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

~~(5)~~~~(4)~~(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of financial institutions shall obtain a criminal history records check and, as part of that records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall ~~do either of the following:~~

~~(i) Request~~ request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number, in accordance with section 109.572 of the Revised Code;

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

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

~~(6)~~~~(5)~~ If an application for a certificate of registration does not contain all of the information required under division (A) of this section, and if such information is not submitted to the division ~~or to the nationwide mortgage licensing system and registry~~ within ninety days after the superintendent ~~or the nationwide mortgage licensing system and registry~~ requests the information in writing, including by electronic transmission or facsimile, the superintendent may consider the application withdrawn.

~~(7)~~~~(6)~~ If the division finds that the financial responsibility, experience, character, and general fitness of the applicant 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 1321.51 to 1321.60 of the Revised Code and the rules adopted thereunder, and that the applicant has the ~~requisite bond or~~ applicable net worth and assets required by division (B) of this section, the division shall thereupon issue a certificate of registration to the applicant. The superintendent shall not use a credit score as the sole basis for a registration denial.

~~(a)~~(i) Certificates of registration issued on or after July 1, 2010, shall annually expire on the thirty-first day of December, unless renewed by the filing of a renewal application and payment of a three-hundred-dollar nonrefundable annual registration fee; and any assessment as determined by the superintendent pursuant to division (A)~~(7)~~~~(6)~~(a)(ii) of this section; ~~and any additional fee required by~~

~~the nationwide mortgage licensing system and registry~~, on or before the last day of December of each year. No other fee or assessment shall be required of a registrant by the state or any political subdivision of this state.

(ii) If the renewal fees billed by the superintendent pursuant to division (A)~~(7)(6)~~(a)(i) of this section are less than the estimated expenditures of the consumer finance section of the division of financial institutions, as determined by the superintendent, for the following fiscal year, the superintendent may assess each registrant at a rate sufficient to equal in the aggregate the difference between the renewal fees billed and the estimated expenditures. Each registrant shall pay the assessed amount to the superintendent prior to the last day of June. In no case shall the assessment exceed ten cents per each one hundred dollars of interest (excluding charge-off recoveries), points, loan origination charges, and credit line charges collected by that registrant during the previous calendar year. If such an assessment is imposed, it shall not be less than two hundred fifty dollars per registrant and shall not exceed thirty thousand dollars less the total renewal fees paid pursuant to division (A)~~(7)(6)~~(a)(i) of this section by each registrant.

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

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

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

~~(8)-(7)~~ If there is a change of five per cent or more in the ownership of a registrant, the division may make any investigation necessary to determine whether any fact or condition exists that, if it had existed at the time of the original application for a certificate of registration, the fact or condition would have warranted the division to deny the application under division (A)~~(7)-(6)~~ of this section. If such a fact or condition is found, the division may, in accordance with Chapter 119. of the Revised Code, revoke the registrant's certificate.

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

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

(C) Not more than one place of business shall be maintained under the same certificate, but the division may issue additional certificates to the same registrant upon compliance with sections 1321.51 to 1321.60 of the Revised Code, governing the issuance of a single certificate. No change in

the place of business of a registrant to a location outside the original municipal corporation shall be permitted under the same certificate without the approval of a new application, the payment of the registration fee and, if required by the superintendent, the payment of an investigation fee of two hundred dollars. When a registrant wishes to change its place of business within the same municipal corporation, it shall give written notice of the change in advance to the division, which shall provide a certificate for the new address without cost. If a registrant changes its name, prior to making loans under the new name it shall give written notice of the change to the division, which shall provide a certificate in the new name without cost. Sections 1321.51 to 1321.60 of the Revised Code do not limit the loans of any registrant to residents of the community in which the registrant's place of business is situated. Each certificate shall be kept conspicuously posted in the place of business of the registrant and is not transferable or assignable.

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

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

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

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

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

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

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

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

Sec. 1321.54. (A) The division of financial institutions may adopt, in accordance with Chapter 119. of the Revised Code, rules that are necessary for the enforcement or administration of sections 1321.51 to 1321.60 of the Revised Code and that are consistent with those sections and rules to carry out the purposes of those sections.

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

(a) A violation of or failure to comply with any provision of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder, any federal lending law, or any other law



applicable to the business conducted under a certificate of registration ~~or license~~;

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

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

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

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

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

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

(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 1321.51 to 1321.60 of the Revised Code.

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

(D) The superintendent may investigate alleged violations of sections 1321.51 to 1321.60 of the Revised Code, or the rules adopted thereunder, or complaints concerning any such violation. The superintendent may make application to the court of common pleas for an order enjoining any violation and, upon a showing by the superintendent that a person has committed, or is about to commit, a violation, the court shall grant an injunction, restraining order, or other appropriate relief. The superintendent, in making application to the court of common pleas for an order enjoining a person from acting as a registrant ~~or mortgage loan originator in violation of division (A) or (E) of section 1321.52 of the Revised Code~~, may also seek and obtain civil penalties for that unregistered ~~or~~

~~unlicensed~~ conduct in an amount not to exceed five thousand dollars per violation.

(E) In conducting an 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 or photocopying of any book, record, or other document pertaining to such 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 such 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.

(F) 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 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder, the superintendent may, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, issue a cease and desist order. The superintendent, in taking administrative action to enjoin a person from acting as a registrant ~~or mortgage loan originator in violation of division (A) or (E) of section 1321.52 of the Revised Code~~, may also seek and impose fines for those violations in an amount not to exceed five thousand dollars per violation. Such an order shall be enforceable in the court of common pleas.

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

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

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

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

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

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

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

Sec. 1321.55. (A) Every registrant shall keep records pertaining to loans made under sections 1321.51 to 1321.60 of the Revised Code. Such records shall be segregated from records pertaining to transactions that are not subject to these sections of the Revised Code. Every registrant shall preserve records pertaining to loans made under sections 1321.51 to 1321.60 of the Revised Code for at least two years after making the final entry on such records. Accounting systems maintained in whole or in

part by mechanical or electronic data processing methods that provide information equivalent to that otherwise required are acceptable for this purpose. At least once each eighteen-month cycle, the division of financial institutions shall make or cause to be made an examination of records pertaining to loans made under sections 1321.51 to 1321.60 of the Revised Code, for the purpose of determining whether the registrant is complying with these sections and of verifying the registrant's annual report.

(B)(1) As required by the superintendent of financial institutions, each registrant shall file with the division each year an annual report under oath or affirmation, on forms supplied by the division, concerning the business and operations for the preceding calendar year. Whenever a registrant operates two or more registered offices or whenever two or more affiliated registrants operate registered offices, then a composite report of the group of registered offices may be filed in lieu of individual reports. ~~For purposes of compliance with this requirement, the superintendent may accept call reports or other reports of condition submitted to the nationwide mortgage licensing system and registry in lieu of the annual report.~~

(2) The superintendent shall publish annually an analysis of the information required under divisions (B)(1) and (3) of this section, but the individual reports, ~~whether filed with the superintendent or the nationwide mortgage licensing system and registry,~~ shall not be public records and shall not be open to public inspection.

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

(C)(1) The following information is 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 (C)(1) of this section shall remain confidential for all purposes except when it is necessary for the superintendent 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.

(D) 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.

(E) 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.

~~(1) Any confidentiality or privilege arising under federal or state law with respect to any~~

~~information or material provided to the nationwide mortgage licensing system and registry shall continue to apply to the information or material after the information or material has been provided to the nationwide mortgage licensing system and registry. The information and material so provided may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of confidentiality or privilege protections provided by federal law or the law of any state. Information or material described in division (E)(1) of this section to which confidentiality or privilege applies shall not be subject to any of the following:~~

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

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

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

~~(3)(2) Any state law, including section 149.43 of the Revised Code, relating to the disclosure of confidential supervisory information or any information or material described in division (C)(1) or (E)(1) of this section that is inconsistent with this section shall be superseded by the requirements of this section.~~

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

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

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

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

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

~~(2) Withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer~~

records, or other information;

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

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

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

~~(C) If a mortgage loan originator's employment or association is terminated for any reason, the registrant shall return the original mortgage loan originator license to the superintendent within five business days after the termination. The licensee may request the transfer of the license to another registrant by submitting a transfer application, along with a fifteen dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent, or may request in writing that the superintendent hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a mortgage loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.~~

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

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

~~If the mortgage loan originator's employment or association is terminated for any reason, the licensee shall return the original mortgage loan originator license to the superintendent within five business days after the termination. The licensee may request the transfer of the license to a mortgage broker or other person claiming an exemption under division (D) of section 1321.53 of the Revised Code by submitting a transfer application, along with a fifteen dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent, or may request the superintendent in writing to hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a mortgage loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education~~

requirement.

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

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

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

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

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

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

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

~~(b) A prepayment penalty.~~

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

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



assigned;

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

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

~~(3) Division (G) of this section is not a limitation on discount points or other charges for purposes of section 501(b)(4) of the "Depository Institutions Deregulation and Monetary Control Act of 1980," 94 Stat. 161, 12 U.S.C.A. 1735f-7 note.~~

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

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

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

~~(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 paid to unaffiliated third parties; 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 affiliated with 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)~~(G)(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.

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

(a) With respect to ~~loans secured by goods or real estate loans~~: if the principal amount of the loan is five hundred dollars or less, loan origination charges not exceeding fifteen dollars; if the principal amount of the loan is more than 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 loans that are not secured ~~by goods or real estate~~: if the principal amount of the loan is five hundred dollars or less, loan origination charges not exceeding fifteen dollars; if the principal amount of the loan is more than 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)-(J)~~ A registrant may charge and receive check collection charges not greater than twenty dollars plus any amount passed on from other depository institutions for each check, negotiable order of withdrawal, share draft, or other negotiable instrument returned or dishonored for any reason.

~~(L)-(K)~~ 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. 1321.58. (A) A registrant may make open-end loans pursuant to an agreement between the registrant and the borrower whereby:

(1) The registrant may permit the borrower to obtain advances of money from the registrant from time to time or the registrant may advance money on behalf of the borrower from time to time as directed by the borrower.

(2) The amount of each advance and permitted interest, charges, and costs are debited to the borrower's account and payments and other credits are credited to the same account.

(3) The interest and charges are computed on the unpaid balance or balances of the account from time to time.

(4) The borrower has the privilege of paying the account in full at any time or, if the account

is not in default, in installments of determinable amounts as provided in the agreement.

For open-end loans, "billing cycle" means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from such date.

(B) Notwithstanding any other provisions of the Revised Code, a registrant may contract for and receive interest for open-end loans at a rate or rates not exceeding twenty-one per cent per year and may compute interest in each billing cycle by either of the following methods:

(1) By multiplying the daily rate by the daily unpaid balance of the account, in which case the daily rate is determined by dividing the annual rate by three hundred sixty-five;

(2) By multiplying the monthly rate by the average daily unpaid balance of the account in the billing cycle, in which case the average daily unpaid balance is the sum of all of the daily unpaid balances each day during the cycle divided by the number of days in the cycle. The monthly rate is determined by dividing the annual rate by twelve.

The billing cycle shall be monthly and the unpaid balance on any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and permitted interest, charges, and costs and deducting all payments and other credits made or received that day.

(C) In addition to the interest permitted in division (B) of this section, a registrant may charge and receive or add to the unpaid balance any or all of the following:

(1) All charges and costs authorized by divisions (E), (F), (G), (H), ~~(I)~~, and ~~(K)~~ ~~(J)~~ of section 1321.57 of the Revised Code;

(2) An annual credit line charge, for the privilege of maintaining a line of credit, as follows:

(a) For the first year:

(i) If the original credit line is less than five thousand dollars, an amount not exceeding one hundred fifty dollars;

(ii) If the original credit line is at least five thousand dollars, an amount not exceeding the greater of one per cent of the original credit line or two hundred fifty dollars.

(b) For subsequent years an amount not exceeding the greater of one-half per cent of the credit line on the anniversary date or fifty dollars.

(3) A default charge on any required minimum payment not paid in full within ten days after its due date. For this purpose, all required minimum payments are considered paid in the order in which they become due. The amount of the default charge shall not exceed the greater of five per cent of the required minimum payment or fifteen dollars.

(D) The borrower at any time may pay all or any part of the unpaid balance on the account or, if the account is not in default, the borrower may pay the unpaid balance in installments subject to minimum payment requirements as determined by the registrant and set forth in the open-end loan agreement.

(E) If credit life insurance or credit accident and health insurance is obtained by the registrant and if the insured dies or becomes disabled when there is an outstanding open-end loan indebtedness, the insurance shall be sufficient to pay the unpaid balance on the loan due on the date of the borrower's death in the case of credit life insurance or all minimum payments that become due on the loan during the covered period of disability in the case of credit accident and health insurance. The additional charge for credit life insurance, credit accident and health insurance, or unemployment

insurance shall be calculated each billing cycle by applying the current monthly premium rate for the insurance, filed by the insurer with the superintendent of insurance and not disapproved by the superintendent, to the unpaid balances in the borrower's account, using one of the methods specified in division (B) of this section for the calculation of interest. No credit life insurance, credit accident and health insurance, or unemployment insurance written in connection with an open-end loan shall be canceled by the registrant because of delinquency of the borrower in making the required minimum payments on the loan unless one or more such payments is past due for a period of thirty days or more. The registrant shall advance to the insurer the amounts required to keep the insurance in force during such period, which amounts may be debited to the borrower's account.

(F) Whenever there is no unpaid balance in an open-end loan account, the account may be terminated by written notice, by the borrower or the registrant, to the other party. ~~If a registrant has taken a mortgage on real property to secure the open-end loan, the registrant shall deliver, within thirty days following termination of the account, a release of the mortgage to the borrower. If a registrant has taken a security interest in personal property to secure the open-end loan, the registrant shall release the security interest and terminate any financing statement in accordance with section 1309.513 of the Revised Code.~~

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

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

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

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

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

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

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

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

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

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

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

~~(I) No registrant or licensee shall knowingly make, propose, or solicit fraudulent, false, or misleading statements on any mortgage document or on any document related to a mortgage loan, 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.~~

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

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

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

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

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

~~(O) No registrant, licensee, or person making loans without a certificate of registration in~~

~~violation of division (A) of section 1321.52 of the Revised Code shall, in connection with making or offering to make residential mortgage loans, engage in any unfair, deceptive, or unconscionable act or practice prohibited under sections 1345.01 to 1345.13 of the Revised Code.~~

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

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

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

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

(B) In making any advertisement, a registrant shall comply with 12 C.F.R. ~~226.16~~ 1026.16, as amended applicable.

Sec. 1321.631. Sections 1321.62 to 1321.702 of the Revised Code do not apply to any of the following:

(A) Any credit transaction with a loan term of less than six months from the loan transaction date;

(B) Any credit transaction that does not require equal monthly payments, unless either of the following ~~apply~~ applies:

(1) The credit transaction contains an interest rate that is tied to a published and verifiable index and the contractual rate of interest is adjusted in accordance with changes in that index.

(2) The credit transaction provides for an extension of the first monthly installment period pursuant to division (C)(2)(a) ~~or (D)(1)(a)~~ of section 1321.68 of the Revised Code.

(C) Any credit transaction with an interest rate in excess of that provided for under section 1321.68 of the Revised Code;

(D) Any credit transaction secured by an interest in the covered borrower's residential mortgage loan, including a transaction to finance the purchase or initial construction of a dwelling, any refinance transaction, home equity loan or home equity line of credit, or reverse mortgage;

(E) Any credit transaction that originates as a result, directly or indirectly, of a referral from a person registered or acting as a credit services organization under sections 4712.01 to 4712.14 of the Revised Code;

(F) Any credit transaction made by a person licensed as a check-cashing business under sections 1315.21 to 1315.30 of the Revised Code;

(G) Any credit transaction made by a retail seller under Chapter 1317. of the Revised Code;

(H) Any credit transaction made by a person licensed or acting as a pawnbroker under Chapter 4727. of the Revised Code;

(I) Any credit transaction made by a person licensed under sections 1321.35 to 1321.48 of the Revised Code;

(J) Any credit transaction made by a collection agency pursuant to section 1319.12 of the Revised Code;

(K) Any credit transaction made by a premium finance company licensed under sections 1321.71 to 1321.83 of the Revised Code;

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

(M) Any credit transaction made by a life, property, or casualty insurance company licensed to do business in this state or any entity licensed under Title XXXIX of the Revised Code that makes advances or loans to any person who is licensed to sell insurance pursuant to that title and who is authorized in writing by that entity to sell insurance;

(N) Any licensee doing business under sections 1321.01 to 1321.19 of the Revised Code;

(O) Any registrant doing business under sections 1321.51 to 1321.60 of the Revised Code;

(P) Any person making a business loan described in division (B)(6) of section 1343.01 of the Revised Code;

(Q) Any political subdivision, or any governmental or other public entity, corporation, instrumentality, or agency, in or of the United States or any state of the United States, or any entity mentioned in division (B)(3) of section 1343.01 of the Revised Code;

(R) Any college or university, or controlled entity of a college or university, as those terms are defined in section 1713.05 of the Revised Code;

(S) Any person doing business under and as permitted by any law of this state, another state, or the United States relating to banks, savings banks, savings societies, trust companies, credit unions, or savings and loan associations substantially all the business of which is confined to loans on real estate mortgages and evidences of their own indebtedness.

Sec. 1321.72. Except as provided in division (D) of section 1321.78, sections 1321.71 to 1321.83 of the Revised Code do not apply with respect to any of the following:

(A) Life, property, or casualty insurance companies authorized to do business in this state as to policies issued by those companies;

(B) The inclusion of a charge for insurance in connection with any installment transaction pursuant to Chapter 1317. of the Revised Code;

(C) The financing of insurance premiums at a rate of interest not exceeding the maximum rate permitted by section 1343.01 of the Revised Code;

(D) Persons lawfully doing business under the authority of any law of this state, another state, or the United States relating to banks, savings banks, trust companies, savings and loan associations, lenders authorized to make loans pursuant to sections 1321.01 to 1321.19 of the Revised Code, lenders authorized to make loans pursuant to sections 1321.51 to 1321.60 of the Revised Code, mortgage lenders authorized to make loans under Chapter 1322. of the Revised Code, or any credit union;

(E) Any person who purchases or otherwise acquires a premium finance agreement from a licensee if the licensee remains responsible for collecting payments due under the agreement, and for otherwise servicing the agreement, in compliance with sections 1321.71 to 1321.83 of the Revised Code.

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

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

(C) Whoever violates section 1321.14 of the Revised Code shall be fined not less than fifty nor more than two hundred dollars for a first offense; for a second offense such person shall be fined not less than two hundred nor more than five hundred dollars and imprisoned for not more than six months.

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

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

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

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

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

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

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

(A) "Administrative or clerical tasks" mean the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry, without performing any analysis of the information, and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(B) "Advertising" means a commercial message in any medium that promotes, either directly or indirectly, a residential mortgage lending transaction.

(C) "Application" has the same meaning as in 12 C.F.R. 1026.2(a)(3).

(D) "Approved education course" means any course approved by the nationwide mortgage licensing system and registry.

(E) "Approved test provider" means any test provider approved by the nationwide mortgage licensing system and registry.

(F) "Borrower" means a person seeking a residential mortgage loan or an obligor on a residential mortgage loan.

(G) "Branch office" means a location at which a licensee conducts business other than a registrant's principal place of business, if at least one of the following applies to the location:

(1) The address of the location appears on business cards, stationery, or advertising used by the registrant;

(2) The registrant's name or advertising at the location suggests that mortgage transactions are made at the location;

(3) The location is held out to the public as a licensee's place of business due to the actions of an employee or independent contractor of the registrant; or



(4) The location within this state is controlled directly or indirectly by the registrant.

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

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

~~(C)-(J)~~ "Control" means the power, directly or indirectly, to direct the management or policies of an entity, whether through ownership of securities, by contract, or otherwise. A person is presumed to control an entity if that person:

(1) Is a director, general partner, or executive officer or is an individual that occupies a similar position or performs a similar function;

(2) Directly or indirectly has the right to vote five per cent or more of a class of a voting security or has the power to sell or direct the sale of five per cent or more of a class of voting securities;

(3) In the case of a limited liability company, is a managing member; or

(4) In the case of a partnership, has the right to receive upon dissolution or has contributed five per cent or more of the capital.

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

(L) "Dwelling" has the same meaning as in 15 U.S.C. 1602(w). "Dwelling" includes a single condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence, whether or not that structure is attached to real property.

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

~~(D)-(N)~~ "Entity" means a business organization, including a sole proprietorship.

(O) "Expungement" means a court-ordered process that involves the destruction of documentation related to past arrests and convictions.

(P) "Federal banking agency" means the board of governors of the federal reserve system, the comptroller of the currency, the national credit union administration, or the federal deposit insurance corporation.

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

(R) "Independent contractor" means an individual who performs duties for another person and is not subject to that person's supervision or control.

(S) "Individual" means a natural person.

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

~~(E)-(I)-(U)~~ "Loan commitment" means a statement transmitted in writing or electronically by a mortgage lender setting forth the terms and conditions upon which the mortgage lender is willing to make a particular residential mortgage loan to a particular borrower.

(V) "Loan processor or underwriter" means an individual who, with respect to the origination of a residential mortgage loan, performs administrative or clerical tasks as an employee at the direction of and subject to the supervision of a mortgage lender or mortgage broker. For purposes of this division, "origination of a residential mortgage loan" means all activities related to a residential mortgage loan, from the taking of a loan application through the completion of all required loan closing documents and the funding of the loan.

(W) "Mortgage" means the consensual interest in real property located in this state, including improvements to that property, securing a debt evidence by a mortgage, trust indenture, deed of trust, or other lien on real property.

(X) "Mortgage broker" means an entity that obtains, attempts to obtain, or assists in obtaining a mortgage loan for a borrower from a mortgage lender in return for consideration or in anticipation of consideration. For purposes of this division, "attempting to obtain or assisting in obtaining" a mortgage loan includes referring a borrower to a mortgage lender, soliciting or offering to solicit a mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a mortgage loan with a mortgage lender on behalf of a borrower.

(Y) "Mortgage lender" means an entity that consummates a residential mortgage loan, advances funds, offers to advance funds, or commits to advancing funds for a residential mortgage loan applicant.

(Z)(1) ~~"Loan-Mortgage loan originator"~~ means an individual who for compensation or gain, or in ~~anticipation the expectation~~ of compensation or gain, does any of the following:

- (a) ~~Takes or offers to take~~ a residential mortgage loan application;
- (b) Assists or offers to assist a buyer in obtaining or applying to obtain a residential mortgage loan by, among other things, advising on loan terms, including rates, fees, and other costs;
- (c) Offers or negotiates terms of a residential mortgage loan;
- (d) Issues or offers to issue a commitment for a residential mortgage loan to a buyer.

(2) ~~"Loan-Mortgage loan originator"~~ does not include any of the following:

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

(b) A person licensed under Chapter 4735. of the Revised Code, or under the similar law of another state, who performs only real estate brokerage activities permitted by that license, provided the person is not compensated by a mortgage lender, mortgage broker, mortgage loan originator, or by any agent thereof;

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

(d) An employee of a ~~registrant mortgage lender or mortgage broker~~ who acts solely as a loan processor or underwriter and who does not represent to the public, through advertising or other means of communicating, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the employee can or will perform any of the activities of a mortgage loan originator;

(e) ~~A mortgage loan originator licensed under sections 1321.51 to 1321.60 of the Revised Code, when acting solely under that authority~~;

(f) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a

client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a mortgage lender, a mortgage broker, or another mortgage loan originator, or by any agent thereof;

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

(i) Offer or negotiate the residential mortgage loan rates or terms;  
(ii) Provide any counseling with borrowers about residential mortgage loan rates or terms;  
(iii) Receive any payment or fee from any company or individual for assisting the borrower obtain or apply for financing to purchase the manufactured home, mobile home, or industrialized unit;

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

~~(h)-(g)~~ An individual employed by a nonprofit organization that is recognized as tax exempt under 26 U.S.C. 501(c)(3) and whose primary activity is the construction, remodeling, or rehabilitation of homes for use by low-income families, provided that the nonprofit organization makes no-profit mortgage loans or mortgage loans at zero per cent interest to low-income families and no fees accrue directly to the nonprofit organization or individual employed by the nonprofit organization from those mortgage loans and that the United States department of housing and urban development does not deny this exemption.

~~(F) "Mortgage" means any indebtedness secured by a deed of trust, security deed, or other lien on real property.~~

~~(G)(1) "Mortgage broker" means any of the following:~~

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

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

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

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

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

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

~~(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, instrumentality, or agency, in or of the United States or any state;~~

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

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

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

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

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

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

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

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

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

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

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

requirements of the federal home loan mortgage corporation:

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

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

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

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

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

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

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

~~(J) "Registrant" means any person that has been issued a mortgage broker certificate of registration under sections 1322.01 to 1322.12 of the Revised Code.~~

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

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

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

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

~~(O) "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.~~

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

(Q) "~~Federal banking agency~~" means the board of governors of the federal reserve system, the comptroller of the currency, the director of the office of thrift supervision, the national credit union administration, and the federal deposit insurance corporation.

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

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

(T) "~~Loan processor or underwriter~~" means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensed loan originator or registered loan originator. For purposes of this division, to "~~perform clerical or support duties~~" means to do all of the following activities:

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

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

~~(U)-(AA)~~ "~~Nationwide mortgage licensing system and registry~~" means a ~~mortgage~~-licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators, or their successor entities, for the licensing and registration of loan originators, or any system established by the secretary of housing and urban development pursuant to the "~~Secure and Fair Enforcement for Mortgage Licensing Act of 2008~~," 122 Stat. 2810, 12 U.S.C. 5101 persons providing non-depository financial services.

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

~~(W)-(CC)~~ "~~Person~~" means an individual, sole proprietorship, corporation, company, limited liability company, partnership, limited liability partnership, trust, or association.

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

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

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

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

(4) Engaging in any activity for which a person engaged in that activity is required to be ~~registered or licensed as a real estate agent~~ salesperson or real estate broker under ~~any applicable the law of this state;~~

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

~~(X)-(EE)~~ "~~Registered mortgage loan originator~~" means an individual to whom both of the

following apply:

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

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

(FF) "Registrant" means any person that has been issued a certificate of registration under this chapter.

(GG) "Residential mortgage loan" means any loan that meets both of the following requirements:

(1) It is primarily for personal, family, or household use that and is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this division, "dwelling" has the same meaning as in section 103 of the "Truth in Lending Act," 82 Stat. 146, 15 U.S.C 1602 located in Ohio.

(2) It is provided and secured by a first lien holder secured creditor or by a second lien holder secured creditor.

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

(Z)(HH) "Residential real estate" means any real property located in this state upon which is constructed a dwelling or upon which a dwelling is intended to be built within a two-year period, subject to 24 C.F.R. 3500.5(b)(4). For purposes of this division, a borrower's intent to build a dwelling within a two-year period is presumed unless the borrower has submitted a written, signed statement to the contrary.

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

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

Sec. 1322.024 1322.02. The superintendent of financial institutions may, by rule, expand and amend the definition of mortgage loan originator or, mortgage broker, or mortgage lender in section 1322.01 of the Revised Code by adding individuals, persons, or entities, or may exempt additional individuals, persons, or entities from those definitions, or the criteria for an entity to obtain a letter of exemption under division (B)(1) of section 1322.05 of the Revised Code, if the superintendent finds that the addition or exemption change is necessary to remain consistent with the purposes fairly intended by the policy and provisions of sections 1322.01 to 1322.12 of the Revised Code and the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101.

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

Revised Code.

Sec. 1322.04. This chapter does not apply to any of the following:

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

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

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

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

(E) Any entity created solely for the purpose of securitizing loans secured by an interest in real estate, provide the entity does not service the loans. As used in this division, "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.

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

(1) Offer or negotiate the residential mortgage loan rates or terms;

(2) Provide any counseling with borrowers about residential mortgage loan rates or terms;

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

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

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

(H) A credit union service organization, provided that the organization utilizes services provided by registered mortgage loan originators or that it holds a valid letter of exemption issued by the superintendent of financial institutions under division (B)(1) of section 1322.05 of the Revised Code.

(I) A depository institution not otherwise required to be licensed under this chapter that voluntarily makes a filing on the nationwide mortgage licensing system and registry as an exempt entity for the purpose of licensing loan originators exclusively associated with the institution and that holds a valid letter of exemption issued by the superintendent pursuant to division (B)(1) of section 1322.05 of the Revised Code.

Sec. ~~1322.023~~ 1322.05. (A) A credit union service organization or depository institution



seeking exemption from registration pursuant to division ~~(G)(2)(j)-(H) or (I)~~ of section ~~1322.01-1322.04~~ of the Revised Code or rules adopted by the superintendent in accordance with section 1322.02 of the Revised Code shall submit an application to the superintendent of financial institutions along with a nonrefundable fee of three hundred fifty dollars for each location of an office to be maintained by the organization or institution seeking exemption. The application shall be in a form prescribed by the superintendent and shall include all of the following:

(1) The organization's or institution's business name and state of incorporation or business registration;

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

(3) An attestation to all of the following:

(a) That the organization or institution and its owners, officers, or partners identified in division (A)(2) of this section have not had a credit union service organization registration or license, mortgage banker license, mortgage broker certificate of registration, or mortgage loan originator license, or any comparable authority, revoked in any governmental jurisdiction;

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

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

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

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

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

(5) An acknowledgment of understanding that the organization or institution is subject to the regulatory authority of the division of financial institutions as described in this section;

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

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

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

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

(1) The organization or institution shall be subject to examination in the same manner as a registrant with respect to the conduct of the organization's or institution's mortgage loan originators. In conducting any out-of-state examination, the organization or institution shall be responsible for

paying the costs of the division in the same manner as a registrant.

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

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

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

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

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

(F) All information obtained by the division pursuant to an examination or investigation under this section shall be subject to the confidentiality requirements set forth in section ~~1322.061~~ 1322.36 of the Revised Code.

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

Sec. ~~1322.02~~ 1322.07. (A)(1) No person, on the person's own behalf or on behalf of any other person, shall act as a mortgage lender or mortgage broker without first having obtained a certificate of registration from the superintendent of financial institutions for ~~every the principal office and every branch~~ office to be maintained by the person for the transaction of business as a mortgage lender or mortgage broker in this state. A registrant shall maintain an office location ~~in this state for the transaction of business as a mortgage lender or 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)(1) No individual shall act as a mortgage loan originator without first having obtained a license from the superintendent. A mortgage loan originator shall be employed by or associated with a mortgage lender, mortgage broker or any person or entity listed in division (G)(2) of section 1322.01 of the Revised Code, or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code, but shall not be employed by or associated with more than one ~~mortgage broker or person or entity registrant or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code~~ at any one time.

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

(3) An individual who holds a valid temporary mortgage loan originator license issued pursuant to section ~~1322.042~~ 1322.24 of the Revised Code may engage in the business of a mortgage loan originator in accordance with sections ~~1322.01 to 1322.12~~ of the Revised Code ~~this chapter~~ during the term of the temporary license.

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

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

~~Sec. 1322.03~~ 1322.09. (A) An application for a certificate of registration as a mortgage broker shall be in writing, under oath, and in ~~the a~~ form prescribed by the superintendent of financial institutions that complies with the requirements of the nationwide mortgage licensing system and registry. The application shall be accompanied by a nonrefundable application fee of five hundred dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section ~~1322.02~~ 1322.07 of the Revised Code and any additional fee required by the nationwide mortgage licensing system and registry. ~~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 superintendent may require that the application be accompanied by a copy of a zoning permit authorizing the use of the residence for commercial purposes, or 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.~~

~~(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) Each applicant shall designate an employee or owner of the applicant as the applicant's operations manager. While acting as the operations manager, the employee or owner shall be licensed as a loan originator under sections 1322.01 to 1322.12 of the Revised Code and shall not be employed by any other mortgage broker.~~

~~(4) Evidence that the person designated on the application pursuant to division (A)(3) of this section possesses at least three years of experience in the residential mortgage and lending field, which experience may include employment with or as a mortgage broker or with a depository institution, mortgage lending institution, or other lending institution, or possesses at least three years of other experience related specifically to the business of residential mortgage loans that the superintendent determines meets the requirements of division (A)(4) of this section;~~

~~(5) Evidence that the person designated on the application pursuant to division (A)(3) of this section has successfully completed the pre-licensing instruction requirements set forth in section 1322.031 of the Revised Code;~~

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

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

~~(8) Evidence that the applicant's operations manager has successfully completed the written test required by section 1322.051 of the Revised Code;~~

~~(9) Any further information that the superintendent requires.~~

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

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

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

~~(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check.~~

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

~~(2) The . As part of that investigation, the superintendent shall conduct a civil records check.~~

(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 five hundred dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(C) In connection with applying for a certificate of registration, the applicant shall furnish to the nationwide mortgage licensing system and registry information concerning the applicant's identity, including all of the following:

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

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

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

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

~~(D)~~ The superintendent shall pay all funds advanced and application and renewal fees and penalties the superintendent receives pursuant to this section and section ~~1322.04-1322.10~~ of the Revised Code to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

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

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

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

~~(G)~~~~(1)~~ The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to mortgage lender or mortgage broker certificates of registration or the persons associated with a mortgage lender or mortgage broker.

(2) For purposes of this section and to reduce the points of contact that the federal bureau of investigation may have to maintain, the division of financial institutions may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to the United States department of justice or other governmental agencies.

(3) For purposes of this section and to reduce the points of contact that the division may have to maintain, the division may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to any source as determined by the division.

Sec. ~~1322.04~~ 1322.10. (A) Upon the conclusion of the investigation required under division (B) of section ~~1322.03-1322.09~~ 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) The application is accompanied by the application fee and any fee required by the nationwide mortgage licensing system and registry.

(a) If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the applicant by certified mail, return receipt requested, that the application will be withdrawn unless the applicant, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the applicant 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 application shall be withdrawn.

(b) If a check or other draft instrument is returned to the superintendent for insufficient funds

after the certificate of registration has been issued, 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, evidence that the use of the residence to transact business as a mortgage lender or mortgage broker is not prohibited.

~~(3) The person designated on the application pursuant to division (A)(3) of section 1322.03 of the Revised Code 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 necessary filings and approvals required by the secretary of state.~~

~~(5)(4) The applicant complies with the surety bond requirements of section 1322.05-1322.32 of the Revised Code.~~

~~(6)(5) The applicant complies with sections 1322.01 to 1322.12 of the Revised Code and the rules adopted thereunder has not made a material misstatement of fact or material omission of fact in the application.~~

~~(7)(6) Neither the applicant nor any person whose identity is required to be disclosed on an application for a mortgage broker certificate of registration has had such a mortgage broker certificate of registration or mortgage loan originator license, or any comparable authority, revoked in any governmental jurisdiction or has pleaded guilty or nolo contendere to or been convicted of any of the following in a domestic, foreign, or military court:~~

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

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

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

~~(9)(7) The applicant's operations manager successfully completed the examination required by section 1322.051-1322.27 of the Revised Code.~~

~~(10)(8) 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, and efficiently in compliance with the purposes of sections 1322.01 to 1322.12 of the Revised Code this chapter and the rules adopted thereunder. The superintendent shall not use a credit score or a bankruptcy as the sole basis for registration denial.~~

(B) For purposes of determining whether an applicant that is a partnership, corporation, or other business entity or association has met the conditions set forth in divisions ~~(A)(7), (A)(6) and (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 those~~ conditions set forth in divisions ~~(A)(7), (A)(8), and (A)(10) of this section~~. This determination shall be based on the extent and nature of the partner's, shareholder's, or person's ownership interest in the partnership, corporation, or other business entity or association that is the applicant and on whether the person is in a position to direct, control, or adversely influence the operations of the applicant.

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

(1) The renewal application is accompanied by a nonrefundable renewal fee of five hundred dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section ~~1322.02-1322.07~~ of the Revised Code and any fee required by the nationwide mortgage licensing system and registry. If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the 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) The operations manager designated under ~~division (A)(3) of section 1322.03-1322.12~~ of the Revised Code has completed; at least eight hours of continuing education as required under section ~~1322.052-1322.28~~ of the Revised Code.

(3) The applicant meets the conditions set forth in divisions (A)(2) to ~~(10)(8)~~ of this section.

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

(D)(1) Subject to division (D)(2) of this section, if a renewal fee or additional fee required by the nationwide mortgage licensing system and registry is received by the superintendent after the thirty-first day of December, the ~~mortgage broker~~ certificate of registration shall not be considered renewed, and the applicant shall cease activity as a mortgage lender or mortgage broker.

(2) Division (D)(1) of this section shall not apply if the applicant, ~~no not later than the thirty-first day of January~~ forty-five days after the renewal deadline, submits the renewal fee or additional fee and a one-hundred-dollar penalty to the superintendent.

(E) ~~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) Within ninety days after the departure of the designated operations manager, designate another person as the operations manager;~~

~~(2) Within ten days after the designation described in division (E)(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 requirements set forth in section 1322.03 of the Revised Code.~~

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

~~(G) Mortgage broker certificates~~ Certificates of registration issued on or after May 1, 2010, under this chapter annually expire on the thirty-first day of December.

(F) The pardon or expungement of a conviction shall not be considered a conviction for purposes of this section. When determining the eligibility of an applicant, the superintendent may consider the underlying crime, facts, or circumstances connected with a pardoned or expunged conviction.

Sec. 1322.12. Each registrant or entity holding a valid letter of exemption under division (B) (1) of section 1322.05 of the Revised Code shall designate an employee or owner of that registrant's business as the operations manager. The operations manager shall be responsible for the management, supervision, and control of a particular location.

To be eligible for such a designation, an employee or owner shall have at least three years of experience as a mortgage loan originator or registered mortgage loan originator. While acting as the operations manager, the employee or owner shall be licensed as a mortgage loan originator under this chapter and shall not be employed by any other mortgage lender or mortgage broker.

~~Sec. 1322.073~~ 1322.15. No person shall acquire, sell, transfer, or hypothecate any interest in a registrant or an applicant for a certificate of registration under this chapter in order to obfuscate or conceal the true ownership or control of the registrant or applicant.

~~Sec. 1322.021~~ 1322.16. (A) A registrant that is a corporation, limited liability company, partnership, trust, or other business entity or association shall notify the division of financial institutions of every sale, transfer, or hypothecation of any stock, security, membership, partnership, or other equitable, beneficial, or ownership interest in the entity or association, if the interest represents at least a five per cent membership, partnership, or other equitable, beneficial, or ownership interest in the entity or association.

(B) Every person that acquires or otherwise receives an interest described in division (A) of this section is subject to ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter. The division may make any investigation necessary to determine whether any fact or condition exists that, if it had existed at the time of the original application for a certificate of registration, the fact or condition would have warranted the division to deny the application under section ~~1322.04-1322.10~~ of the Revised Code. If such a fact or condition is found, the division may, in accordance with Chapter 119. of the Revised Code, revoke the registrant's certificate.

~~Sec. 1322.065~~ 1322.17. A person registered ~~as a mortgage broker under this chapter~~ solely to sell leads of potential buyers to residential mortgage lenders or mortgage brokers, or solely to match buyers with residential mortgage lenders or mortgage brokers through a computerized loan origination system recognized by the United States department of housing and urban development,



shall be required to make only those disclosures under ~~sections 1322.01 to 1322.12 of the Revised Code this chapter~~ that apply to the portion of the transaction during which they have direct buyer contact, and shall be subject to all fair conduct and prohibition requirements in their dealing with buyers.

~~Sec. 1322.031~~ 1322.20. (A) An application for a license as a mortgage loan originator shall be in writing, under oath, and in ~~the a~~ form prescribed by the superintendent of financial institutions that complies with the requirements of the nationwide mortgage licensing system and registry. The application shall be accompanied by a nonrefundable application fee of one hundred fifty dollars and any additional fee required by the nationwide mortgage licensing system and registry.

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

(a) Twenty hours of instruction in ~~a an approved education course or program of study reviewed and approved by the nationwide mortgage licensing system and registry;~~

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

(2) ~~Notwithstanding division (B)(1) of this section, until the nationwide mortgage licensing system and registry implements a review and approval program, the application shall provide evidence, as determined by the superintendent, that the applicant has successfully completed at least twenty-four hours of 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 registrant and a licensee, including with respect to confidentiality, consumer counseling, and the duties and standards of care created in section 1322.081 of the Revised Code.~~

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

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

(5) ~~(3)~~ A person having successfully completed the pre-licensing education requirement reviewed and approved by the nationwide mortgage licensing system and registry for any state within

the previous five years shall be granted credit toward completion of the pre-licensing education requirement of this state.

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

(1) Evidence that the applicant passed a written test that meets the requirements described in section ~~1322.051~~ 1322.27 of the Revised Code;

(2) Any further information that the superintendent requires.

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

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

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

~~(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check.~~

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

~~(2) The~~ As part of that investigation, the superintendent shall conduct a civil records check.

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

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

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

~~(b)(2)~~ Personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, along with authorization for the superintendent and the nationwide mortgage licensing system and registry to obtain both of the following:

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

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

~~(2) In order to effectuate the purposes of divisions (E)(1)(a) and (E)(1)(b)(ii) of this section, the superintendent may use the conference of state bank supervisors, or a wholly owned subsidiary,~~

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

(F) The superintendent shall pay all funds advanced and application and renewal fees and penalties the superintendent receives pursuant to this section and section ~~1322.041-1322.21~~ of the Revised Code to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

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

~~(H)(1) The business of a loan originator shall principally be transacted at an office of the mortgage broker with whom the licensee is employed or associated, which office is registered in accordance with division (A) of section 1322.02 of the Revised Code. Each original loan originator license shall be deposited with and maintained by the 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 originator principally transacts business.~~

~~(2) If a loan originator's employment or association is terminated for any reason, the mortgage broker shall return the original loan originator 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 transfer application, along with a fifteen dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow. Any licensee whose license is held in escrow shall cease activity as a loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.~~

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

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

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

~~(b) If the loan originator's employment or association is terminated, the loan originator shall return the original loan originator license to the superintendent within five business days after termination. The licensee may request the transfer of the license to a mortgage broker or another~~

~~person or entity listed in division (G)(2) of section 1322.01 of the Revised Code by submitting a transfer application, along with a fifteen-dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.~~

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

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

(2) For purposes of this section and to reduce the points of contact that the federal bureau of investigation may have to maintain, the division of financial institutions may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to the United States department of justice or other governmental agencies.

(3) For purposes of this section and to reduce the points of contact that the division may have to maintain, the division may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to any source as determined by the division.

~~(J)-(I) A mortgage loan originator license, or the authority granted under that license, is not assignable and cannot be franchised by contract or any other means or transferable.~~

~~Sec. 1322.041 1322.21. (A) Upon the conclusion of the investigation required under division (D)-(C) of section 1322.031 1322.20 of the Revised Code, the superintendent of financial institutions shall issue a mortgage loan originator license to the applicant if the superintendent finds that the following conditions are met:~~

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

~~(a) If a check or other draft instrument is returned to the superintendent for insufficient funds, the superintendent shall notify the applicant by certified mail, return receipt requested, that the application will be withdrawn unless the applicant, within thirty days after receipt of the notice, submits the application fee and a one-hundred-dollar penalty to the superintendent. If the applicant 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 application shall be withdrawn.~~

~~(b) If a check or other draft instrument is returned to the superintendent for insufficient funds after the license has been issued, 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 originator.

(2) ~~The applicant complies with sections 1322.01 to 1322.12 of the Revised Code and the rules adopted thereunder~~ has not made a material misstatement of fact or material omission of fact in the application.

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

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

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

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

~~(5) The applicant successfully completed the written test required by section 1322.051 of the Revised Code and completed the precicensing instruction set forth in division (B) of section 1322.031 1322.20 of the Revised Code.~~

~~(6) (5) The applicant's financial responsibility, 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 this chapter.~~ The superintendent shall not use a credit score or bankruptcy as the sole basis for a license denial.

~~(7) (6) The applicant is in compliance with the surety bond requirements of section 1322.05 1322.32 of the Revised Code.~~

~~(8) (7) The applicant has not had a mortgage loan originator license, or comparable authority, revoked in any governmental jurisdiction.~~

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

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

(2) The applicant has completed at least eight hours of continuing education as required

under section ~~1322.052-1322.28~~ of the Revised Code.

(3) The applicant meets the conditions set forth in divisions (A)(2) to ~~(8)-(7)~~ of this section; ~~provided, however, that an applicant who was issued a loan officer license prior to January 1, 2010, and has continuously maintained that license shall not be required to meet the condition described in division (B)(1)(b) of section 1322.031 of the Revised Code.~~

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

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

(2) Division (C)(1) of this section shall not apply if the applicant, ~~no not~~ later than ~~the thirty-first day of January~~ forty-five days after the renewal deadline, submits the renewal application and any other required fees and a one-hundred-dollar penalty to the superintendent.

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

(E) The pardon or expungement of a conviction shall not be considered a conviction for purposes of this section. When determining the eligibility of an applicant, the superintendent may consider the underlying crime, facts, or circumstances connected with a pardoned or expunged conviction.

~~Sec. 1322.042 1322.24.~~ (A) As used in this section:

(1) "Out-of-state mortgage loan originator" means an individual to whom both of the following apply:

(a) The individual holds a valid mortgage loan originator license, or comparable authority, issued pursuant to the law of any other state of the United States.

(b) The individual is registered, fingerprinted, and maintains a unique identifier through the nationwide mortgage licensing system and registry.

(2) "Sponsor" means a registrant ~~or entity described in division (G)(2) of section 1322.01 of the Revised Code~~ that employs or is associated with an applicant for a temporary mortgage loan originator license and, during the term of the applicant's temporary license, covers the applicant under its corporate surety bond or requires the applicant to obtain and maintain a corporate surety bond.

(B) The superintendent of financial institutions may, in accordance with this section, issue to an out-of-state mortgage loan originator a temporary mortgage loan originator license that enables the licensee to engage in the business of a mortgage loan originator while the individual completes the requirements necessary to meet the conditions set forth in section ~~1322.041-1322.21~~ of the Revised Code for a mortgage loan originator license. A temporary mortgage loan originator license shall be valid for a term of not more than one hundred twenty days from the date of issuance. A temporary mortgage loan originator license may not be renewed.

(C) An application for a temporary mortgage loan originator license shall be in writing, under oath, and in a form that meets the requirements of the nationwide mortgage licensing system and registry. The application shall be accompanied by a nonrefundable application fee, the amount of

which shall be determined by the superintendent in rule, and a certification that, as of the date of application, the applicant meets the following conditions:

(1) The applicant has at least two years of experience in the field of residential mortgage lending in the five years immediately preceding the date of application for the temporary mortgage loan originator license.

(2) The applicant has not previously applied for a temporary mortgage loan originator license in this state.

(3) The applicant has not had a mortgage loan originator license, or comparable authority, revoked in any governmental jurisdiction. For purposes of division (C)(3) of this section, a subsequent formal vacation of such a revocation shall not be considered a revocation.

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

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

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

For purposes of division (C)(4) of this section, any conviction for which the applicant has received a pardon shall not be considered a conviction.

(D) The superintendent shall issue a temporary mortgage loan originator license to the applicant if the superintendent finds that all of the following conditions are met:

(1) The application is accompanied by the application fee and the certification described in division (C) of this section.

(2) The applicant is registered, fingerprinted, and has a valid unique identifier through the nationwide mortgage licensing system and registry as of the date of application.

(3) The applicant has authorized the nationwide mortgage licensing system and registry to obtain a credit report for submission to the superintendent.

(4) The applicant has a sponsor that certifies employment of, or association with, the applicant and has signed the application.

(E) The sponsor of a temporary licensee shall have an affirmative duty to supervise the conduct of ~~each the temporary loan originator licensee~~ in the same manner as is required of its other licensees. If the temporary licensee's employment or association with the sponsor is terminated, the sponsor shall notify the division of financial institutions of the termination through the nationwide mortgage licensing system and registry. Upon the division's receipt of the notice, the sponsor shall no longer be held responsible for the conduct of the temporary licensee.

~~(F) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt rules necessary for the implementation and operation of this section.~~

Sec. ~~1322.043~~ 1322.25. If the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, as amended, is modified after the effective date of this ~~section~~ amendment, or any regulation, statement, or position is adopted under that act, to permit states to issue a temporary mortgage loan originator license to a registered loan originator, the superintendent shall, in accordance with section 111.15 of the Revised Code, adopt rules the superintendent considers necessary and appropriate to issue a temporary license to a registered loan originator.

~~Sec. 1322.051~~ 1322.27. 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 and each~~ applicant for a mortgage loan originator license shall submit to a written test that is developed and approved by the nationwide mortgage licensing system and registry and administered by ~~a~~ an approved test provider ~~approved by the nationwide mortgage licensing system and registry based on reasonable standards.~~

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

(B) An individual shall not be considered to have passed the written test unless the individual answers at least seventy-five per cent of the questions correctly.

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

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

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

~~Sec. 1322.052~~ 1322.28. (A) Each licensee ~~and 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 complete at least eight hours of continuing education every calendar year. To fulfill this requirement, the eight hours of continuing education must be offered in a course or program of study reviewed and approved by the ~~nationwide mortgage licensing system and registry~~ superintendent of financial institutions. The course or program of study shall include all of the following:

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

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

(3) Two hours of training related to lending standards for non-qualified mortgages, as defined in 12 C.F.R. 1026.43, or the nontraditional mortgage product marketplace.

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

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

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

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

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

(4) A licensee who is approved as an instructor of a continuing education course receives credit for the licensee's own annual continuing education requirement at the rate of two credit hours



for every one hour taught.

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

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

Sec. 1322.29. (A) A registrant or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code shall supervise all business of a mortgage loan originator conducted at the principal office, any branch office, or other location used by the individual mortgage loan originator.

(B) If a mortgage loan originator's employment or association is terminated for any reason, the licensee may request the transfer of the license to another mortgage lender or mortgage broker by submitting a transfer application, along with a fifteen-dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent of financial institutions or may request the superintendent in writing to hold the license in escrow. Any licensee whose license is held in escrow shall cease activity as a mortgage loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.

(C) A registrant may employ or be associated with a mortgage loan originator on a temporary basis pending the transfer of the mortgage loan originator's license to the registrant, if the registrant receives written confirmation from the superintendent that the mortgage loan originator is licensed under this chapter.

(D) Notwithstanding divisions (A) to (C) of this section, if a licensee is employed by or associated with a person or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code, all of the following apply:

(1) The licensee shall maintain and display a copy of the mortgage loan originator license at the office where the licensee principally transacts business.

(2) If the mortgage loan originator's employment or association is terminated, the mortgage loan originator shall notify the superintendent within five business days after termination. The licensee may request the transfer of the license to another person or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code by submitting a transfer application, along with a fifteen-dollar fee and any fee required by the national mortgage licensing system and registry, to the superintendent or may request the superintendent in writing to hold the license in escrow. A licensee whose license is held in escrow shall cease activity as a mortgage loan originator. A licensee whose license is held in escrow shall be required to apply for renewal annually and to comply with the annual continuing education requirement.

(E) A licensee may seek to be employed by or associated with a registrant or a person or entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code, if the mortgage lender, mortgage broker, or person or entity receives written confirmation from

the superintendent that the mortgage loan originator is licensed under this chapter.

Sec. 1322.30. A registrant may contract for and receive interest at any rate or rates agreed upon or consented to by the parties to the dwelling secured loan or mortgage, but not exceeding an annual percentage rate of twenty-five per cent.

~~Sec. 1322.05~~ 1322.32. (A)(1) No registrant shall conduct business in this state, unless the registrant has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of one-half per cent of the aggregate loan amount of residential mortgage loans originated in the immediately preceding calendar year, but not exceeding one hundred fifty thousand dollars. Under no circumstances, however, shall the bond be less than fifty thousand dollars and an additional penal sum of ten thousand dollars for each location, in excess of one, at which the registrant conducts business. The term of the bond shall coincide with the term of registration. A copy of the bond shall be filed with the superintendent. The bond shall be for the exclusive benefit of any buyer injured by a violation by an employee of the registrant, mortgage loan originator employed by or associated with the registrant, or registrant of any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or any rule adopted thereunder. The aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond.

(2)(a) No licensee who is employed by or associated with a person or entity ~~listed in holding a valid letter of exemption under division (G)(2) (B)(1) of section 1322.01-1322.05~~ of the Revised Code shall conduct business in this state, unless either the licensee or the person or entity on the licensee's behalf has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of one-half per cent of the aggregate loan amount of residential mortgage loans originated in the immediately preceding calendar year, but not exceeding one hundred thousand dollars. Under no circumstances, however, shall the bond be less than fifty thousand dollars. The term of the bond shall coincide with the term of licensure. A copy of the bond shall be filed with the superintendent. The bond shall be for the exclusive benefit of any buyer injured by a violation by the licensee of any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or any rule adopted thereunder. The aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond.

(b) Licensees covered by a corporate surety bond obtained by a registrant, or by a person or entity ~~listed in holding a valid letter of exemption under division (G)(2) (B)(1) of section 1322.01-1322.05~~ of the Revised Code, they are employed by or associated with shall not be required to obtain an individual bond.

(B)(1)(a) The registrant shall give notice to the superintendent by certified mail of any action that is brought by a buyer against the registrant, mortgage loan originator, or employee alleging injury by a violation of any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or any rule adopted thereunder, and of any judgment that is entered against the registrant, mortgage loan originator, or employee by a buyer injured by a violation of any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or any rule adopted thereunder. The notice shall

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

(b) The licensee shall give notice to the superintendent by certified mail of any action that is brought by a buyer against the licensee alleging injury by a violation of any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or any rule adopted thereunder, and of any judgment that is entered against the licensee by a buyer injured by a violation of any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or any rule adopted thereunder. The notice shall provide details sufficient to identify the action or judgment, and shall be filed with the superintendent within ten days after the commencement of the action or notice to the licensee of entry of a judgment. A person or entity ~~listed in~~ holding a valid letter of exemption under division (G)(2) (B)(1) of section 1322.01-1322.05 of the Revised Code that secures bonding for the licensees employed by or associated with the person or entity shall report such actions or judgments in the same manner as is required of registrants.

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

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

(D) The liability of the corporate surety on the bond to the superintendent and to any buyer injured by a violation of any provision of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or any rule adopted thereunder shall not be affected in any way by any misrepresentation, breach of warranty, or failure to pay the premium, by any act or omission upon the part of the registrant or licensee, by the insolvency or bankruptcy of the registrant or licensee, or by the insolvency of the registrant's or licensee's estate. The liability for any act or omission that occurs during the term of the corporate surety bond shall be maintained and in effect for at least two years after the date on which the corporate surety bond is terminated or canceled.

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

(F) No registrant or licensee employed by or associated with a person or entity ~~listed in~~ holding a valid letter of exemption under division (G)(2) (B)(1) of section 1322.01-1322.05 of the Revised Code shall fail to comply with this section. Any registrant or licensee that fails to comply with this section shall cease all mortgage lender, mortgage broker, or mortgage loan originator activity in this state until the registrant or licensee complies with this section.

~~Sec. 1322.06 1322.34.~~ (A) As often as the superintendent of financial institutions considers it necessary, the superintendent may examine the registrant's or licensee's records, including all records created or processed by a licensee, pertaining to business transacted pursuant to ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter.

(B) A registrant or licensee 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, this chapter~~ for four years. For purposes of this division, "registrant or licensee" includes any person whose certificate of registration or license is cancelled, surrendered, or revoked or who otherwise ceases to engage in business as a mortgage lender, mortgage broker, or mortgage loan originator.

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

(C) ~~Each registrant and, licensee, and entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code shall submit to the nationwide mortgage licensing system and registry call reports or other reports of condition, which reports shall be in such form and shall contain such information as the nationwide mortgage licensing system and registry may require. Each registrant and entity holding a valid letter of exemption under division (B)(1) of section 1322.05 of the Revised Code shall ensure that all residential mortgage loans that are consummated as a result of a mortgage loan originator's loan origination activities are included in the report of condition submitted to the nationwide mortgage licensing system and registry.~~

~~(D)(1) As required by the superintendent, each registrant shall file with the division of financial institutions an annual report under oath or affirmation, on forms supplied by the division, concerning the business and operations of the registrant for the preceding calendar year. If a registrant operates two or more registered offices, or two or more affiliated registrants operate registered offices, a composite report of the group of registered offices may be filed in lieu of individual reports. For purposes of compliance with this requirement, the superintendent may accept call reports or other reports of condition submitted to the nationwide mortgage licensing system and registry in lieu of the annual report.~~

~~(2) The superintendent shall publish annually an analysis of the information required under division (D)(1) of this section, but the individual reports, whether filed with the superintendent or the nationwide mortgage licensing system and registry, shall not be public records and shall not be open to public inspection or otherwise be subject to section 149.43 of the Revised Code. Any document or record that is required to be signed and that is filed in this state as an electronic record through the nationwide mortgage licensing system and registry, and any other electronic record filed through the nationwide mortgage licensing system and registry, shall be considered a valid original document upon reproduction to paper form by the division of financial institutions.~~

~~Sec. 1322.072 1322.35.~~ No person, in connection with any examination or investigation conducted by the superintendent of financial institutions under ~~sections 1322.01 to 1322.12 of the Revised Code this chapter~~, shall knowingly do any of the following:

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

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

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

~~Sec. 1322.061 1322.36.~~ (A)(1) The following information is 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 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) The superintendent shall, on a regular basis, report violations of ~~sections 1322.01 to 1322.12 of the Revised Code~~ any provision of this chapter, as well as enforcement actions and other relevant information, to the nationwide mortgage licensing system and registry.

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

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

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

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

(3) Any state law, including section 149.43 of the Revised Code, relating to the disclosure of confidential supervisory information or any information or material described in division (A)(1) or

(E)(1) of this section that is inconsistent with this section shall be superseded by the requirements of this section.

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

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

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

~~Sec. 1322.07~~ 1322.40. No registrant, licensee, or person required to be registered or licensed under sections 1322.01 to 1322.12 of the Revised Code this chapter, or individual disclosed in an application as required by ~~division (A)(2) of section 1322.03 of the Revised Code~~ this chapter, shall do any of the following:

(A) Obtain a ~~mortgage broker~~ certificate of registration or mortgage loan originator license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application;

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

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

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

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

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

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

(E) Knowingly make, propose, or solicit fraudulent, false, or misleading statements on any mortgage loan document or on any document related to a mortgage loan, 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;

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

Sec. ~~1322.074~~ 1322.41. (A) Except as otherwise provided in division (B) of this section, no registrant, or any member of the immediate family of an owner of a registrant, shall own or control a majority interest in an appraisal company.

(B) Division (A) of this section shall not apply to any registrant, or any member of the immediate family of an owner of a registrant, who, on January 1, 2010, directly or indirectly 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 immediate family of an owner of a registrant shall not increase their interest in the company.

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

(3) If the registrant is convicted of or pleads guilty or nolo contendere to a criminal violation of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or any criminal offense described in division (A)(1)(b) of section ~~1322.10-1322.50~~ of the Revised Code, the superintendent of financial institutions may, in addition to any of the actions authorized under section ~~1322.10-1322.50~~ of the Revised Code, order the registrant or members of the immediate family of an owner of a registrant to divest their interest in the company.

Sec. ~~1322.075~~ 1322.42. (A)(1) No registrant or licensee or person required to be registered or licensed under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter shall refer a buyer to any settlement service provider, including any title insurance company, that has an affiliated business arrangement with the registrant, licensee, or person 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 sections 1322.01 to 1322.12 of the Revised Code, 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 sections 1322.01 to 1322.12 of the Revised Code 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." as required by rule adopted by the superintendent.~~

(2) As used in division (A)(1) of this section, "affiliated business arrangement" has the same meaning as in 12 U.S.C. 2602.

(B) No registrant or licensee shall refer a buyer to an appraisal company, if the registrant or licensee, a member of the immediate family of an owner of the registrant, or a member of the 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, and entity holding a valid letter of exemption under division (B) (1) of section 1322.05 of the Revised Code, or person required to be registered or licensed under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter shall retain proof that the buyer received the written disclosures required by division (A) of this section for four years.

Sec. 1322.43. No registrant and entity holding a valid letter of exemption under division (B) (1) of section 1322.05 of the Revised Code, through its operations manager or otherwise, shall fail to do either of the following:

(A) Reasonably supervise a mortgage loan originator or any other person associated with the registrant;

(B) Establish reasonable procedures designed to avoid violations of any provision of this chapter or the rules adopted under this chapter, or violations of applicable state and federal consumer and lending laws or rules, by mortgage loan originators or any other person associated with the registrant.

~~Sec. 1322.081~~ 1322.45. (A) A registrant, a licensee, and any person required to be registered or licensed under ~~sections 1322.01 to 1322.12 of the Revised Code~~ 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 buyer;

(2) Follow reasonable and lawful instructions from the buyer;

(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 residential mortgage loan;

(5) Make reasonable efforts to secure a residential 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 buyer.



(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 failure to comply with~~ 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 failure to comply with~~ 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 ~~1322.41-1322.52~~ of the Revised Code and the recovery of damages for a ~~violation of failure to comply with~~ this section is based on the same acts or circumstances as the basis for recovery of damages in section ~~1322.41-1322.52~~ of the Revised Code.

(F) This section shall not be interpreted by the superintendent to require a separate account for deposit of buyer funds.

~~Sec. 1322.09 1322.46.~~ (A) A ~~mortgage broker registrant~~ or mortgage loan originator shall disclose in any printed, televised, broadcast, electronically transmitted, or published advertisement relating to the ~~mortgage broker's registrant's~~ or mortgage loan originator's services, including on any electronic site accessible through the internet, the ~~business name and street address of the mortgage broker registrant or mortgage loan originator and the number designated on the certificate of registration or license that is issued to~~ unique identifier of the mortgage broker registrant or mortgage loan originator by the superintendent of financial institutions under sections 1322.01 to 1322.12 of the Revised Code.

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

~~(C) No mortgage broker or loan originator shall fail to comply with this section.~~

~~Sec. 1322.40 1322.50.~~ (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 any 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 this chapter~~ or the rules adopted under ~~those sections this chapter~~, federal lending law, or any other law applicable to the business conducted under a certificate of registration or license;

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

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

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

(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 may consider all of the following, to the extent known by the division of financial institutions:

- (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~~ this chapter.

(B) The superintendent may investigate alleged violations of ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter or the rules adopted under ~~those sections~~ this chapter or complaints concerning any violation.

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

(2) The superintendent may make application to the court of common pleas for an order enjoining any person from acting as a mortgage lender, mortgage broker, registrant, mortgage loan originator, or licensee in violation of division (A) or (B) of section ~~1322.02-1322.07~~ of the Revised Code, and may seek and obtain civil penalties for unregistered or unlicensed conduct of not more than five thousand dollars per violation.

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

(D) If the superintendent determines that a person is engaged in or is believed to be engaged in activities that may constitute a violation of ~~sections 1322.01 to 1322.12 of the Revised Code this chapter~~ or any rule adopted thereunder, the superintendent, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, may issue a cease and desist order. If the administrative action is to enjoin a person from acting as a mortgage lender, mortgage broker, or mortgage loan originator in violation of division (A) or (B) of section ~~1322.02-1322.07~~ of the Revised Code, the superintendent may seek and impose fines for that conduct in an amount not to exceed five thousand dollars per violation. Such an order shall be enforceable in the court of common pleas.

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

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

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

(b) Suspend the ~~mortgage broker~~ certificate of registration of a registrant who violates division (F) of section ~~1322.05-1322.32~~ of the Revised Code;

(c) Suspend the ~~mortgage broker~~ certificate of registration or mortgage loan originator license of a registrant or licensee who fails to comply with a request made by the superintendent under section ~~1322.03-1322.09~~ or ~~1322.031-1322.20~~ of the Revised Code to inspect qualifying education transcripts located at the registrant's or licensee's place of business.

(2) 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.

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

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

~~Sec. 1322.101~~ 1322.51. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the division of financial institutions shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a certificate or license issued pursuant to this chapter.

~~Sec. 1322.11~~ 1322.52. (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 1322.09-1322.40, or 1322.46~~ of the Revised Code may bring an action for recovery of damages.

(2) Damages awarded under division (A)(1) of this section shall not be less than all compensation paid directly and indirectly to a ~~mortgage broker registrant~~ or mortgage loan originator from any source, plus reasonable attorney's fees and court costs.

(3) The buyer may be awarded punitive damages.

(B)(1) The superintendent of financial institutions or a buyer may directly bring an action to

enjoin a violation of ~~sections 1322.01 to 1322.12 of the Revised Code~~ any provision of this chapter. The attorney general may directly bring an action to enjoin a violation of ~~sections 1322.01 to 1322.12 of the Revised Code~~ any provision of this chapter 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~~ any provision of this chapter 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~~ this chapter 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~~ this chapter.

(4) In order to initiate criminal proceedings under ~~sections 1322.01 to 1322.12 of the Revised Code~~ this chapter, 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~~ this chapter, 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~~ any provision of this chapter 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~~ provisions, 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 this chapter~~ or any rule adopted under ~~those sections this chapter~~, 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 this chapter~~, 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 ~~1322.081-1322.45~~ 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 ~~1322.081-1322.45~~ of the Revised Code.

~~Sec. 1322.025~~ 1322.55. (A) Notwithstanding any provision of ~~sections 1322.01 to 1322.12 of the Revised Code this chapter~~, or any rule adopted thereunder, if the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008," 122 Stat. 2810, 12 U.S.C. 5101, as amended, is modified after ~~the effective date of this section, October 16, 2009~~, or any regulation, statement, or position is adopted under that act, and the item modified or adopted affects any matter within the scope of ~~sections 1322.01 to 1322.12 of the Revised Code this chapter~~, the superintendent of financial institutions may by rule adopt a similar provision.

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

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

- (1) The date the superintendent issues the rule;
- (2) The date the regulation, rule, interpretation, procedure, or guideline the superintendent's rule is based on becomes effective.

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

Sec. 1322.56. The superintendent of financial institutions may adopt, in accordance with Chapter 119. of the Revised Code, any rule necessary to comply with the requirements of the nationwide mortgage licensing system and registry, including requirements pertaining to all of the following:

(A) Payment of nonrefundable fees to apply for, maintain, and renew licenses through the nationwide mortgage licensing system and registry;

(B) Renewal or reporting dates;

(C) Procedures to amend or to surrender a license;

(D) Any other activity necessary for participation in the nationwide mortgage licensing system and registry.

~~Sec. 1322.12~~ 1322.57. The superintendent of financial institutions, in accordance with Chapter 119. of the Revised Code, may adopt reasonable rules to administer and enforce ~~sections 1322.01 to 1322.12 of the Revised Code this chapter~~ and to carry out the purposes of ~~those sections~~

this chapter.

Sec. 1322.99. (A)(1) Whoever violates division (A)(1) ~~or (2) of section 1322.02, 1322.07 or division (E), (F), or (G) of section 1322.07, division (B)(1) or (2) of section 1322.071, or section 1322.08-1322.40~~ 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)(2) Whoever violates division (B) or (C)(1) or (2) of section 1322.02-1322.07 of the Revised Code is guilty of a misdemeanor of the first degree.~~

(B) The offenses established under divisions (A) and (B) of section 1322.07 of the Revised Code are strict liability offenses, and section 2901.20 of the Revised Code does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense for which there is no specified degree of culpability, whether in this section or another section of the Revised Code, is not a strict liability offense.

Sec. 1329.71. (A) As used in this section, "financial institution" means any bank, savings and loan association, savings bank, or credit union; any affiliate or subsidiary of a bank, savings and loan association, savings bank, or credit union; ~~or any registrant as defined in section 1321.51 of the Revised Code; or any person registered as a mortgage lender under Chapter 1322. of the Revised Code.~~

(B) Any financial institution may proceed by suit to enjoin the use of the financial institution's name or logo in connection with the sale, offering for sale, distribution, or advertising of any product or service without the express written consent of the financial institution, if such use is misleading or deceptive as to the source of origin or sponsorship of, or the affiliation with, the product or service. Any court of competent jurisdiction may grant injunctions to restrain such use as the court considers just and reasonable and may require the defendants to pay to the financial institution all profits derived from and all damages suffered by reason of the wrongful use of the name or logo.

(C) Notwithstanding division (B) of this section, the only remedies that are available for the wrongful use of a financial institution's name or logo by a registrant or licensee under ~~sections 1322.01 to 1322.12 Chapter 1322.~~ of the Revised Code are those set forth in section ~~1322.10-1322.50~~ of the Revised Code or otherwise provided by statute or common law.

(D) The provisions of this section are not intended to be exclusive remedies and do not preclude the use of any other remedy provided by law.

Sec. 1335.02. (A) As used in this section:

(1) "Debtor" means a person that obtains credit or seeks a loan agreement with a financial institution or owes money to a financial institution.

(2) "Financial institution" means ~~either~~ any of the following:

(a) A federally or state-chartered bank, savings bank, savings and loan association, or credit union, or a holding company, subsidiary, or affiliate of a bank, savings bank, or savings and loan association;

(b) A licensee under sections 1321.01 to 1321.19 of the Revised Code, or a registrant under sections 1321.51 to 1321.60 of the Revised Code, or a parent company, subsidiary, or affiliate of a licensee or registrant;

(c) A person registered as a mortgage lender under Chapter 1322. of the Revised Code or a parent company, subsidiary, or affiliate of such a person.

(3) "Loan agreement" means one or more promises, promissory notes, agreements, undertakings, security agreements, mortgages, or other documents or commitments, or any combination of these documents or commitments, pursuant to which a financial institution loans or delays, or agrees to loan or delay, repayment of money, goods, or anything of value, or otherwise extends credit or makes a financial accommodation. "Loan agreement" does not include a promise, promissory note, agreement, undertaking, or other document or commitment relating to a credit card, a charge card, a revolving budget agreement subject to section 1317.11 of the Revised Code, an open-end loan agreement subject to section 1321.16 or 1321.58 of the Revised Code, or an open-end credit agreement subject to section 1109.18 of the Revised Code.

(B) No party to a loan agreement may bring an action on a loan agreement unless the agreement is in writing and is signed by the party against whom the action is brought or by the authorized representative of the party against whom the action is brought. However, a loan agreement need not be signed by an officer or other authorized representative of a financial institution, if the loan agreement is in the form of a promissory note or other document or commitment that describes the credit or loan and the loan agreement, by its terms, satisfies all of the following conditions:

(1) The loan agreement is intended by the parties to be signed by the debtor but not by an officer or other authorized representative of the financial institution.

(2) The loan agreement has been signed by the debtor.

(3) The delivery of the loan agreement has been accepted by the financial institution.

(C) The terms of a loan agreement subject to this section, including the rights and obligations of the parties to the loan agreement, shall be determined solely from the written loan agreement, and shall not be varied by any oral agreements that are made or discussions that occur before or contemporaneously with the execution of the loan agreement. Any prior oral agreements between the parties are superseded by the loan agreement.

(D) This section does not apply to any loan agreement in which the proceeds of the loan agreement are used by the debtor primarily for personal, household, or family purposes and either of the following applies:

(1) The proceeds of the loan agreement are less than forty thousand dollars;

(2) A security interest securing the loan agreement is or will be acquired in the primary residence of the debtor.

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

(A) "Consumer transaction" means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or solicitation to supply any of these things. "Consumer transaction" does not include transactions between persons, defined in sections 4905.03 and 5725.01 of the Revised Code, and their customers, except for transactions involving a loan made pursuant to sections 1321.35 to 1321.48 of the Revised Code and transactions in connection with residential mortgages between loan officers, mortgage brokers, or nonbank mortgage lenders and their customers; transactions involving a home construction service contract as defined in section 4722.01 of the Revised Code; 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)(1) "Loan officer" means an individual who for compensation or gain, or in anticipation of compensation or gain, takes or offers to take a residential mortgage loan application; assists or offers to assist a buyer in obtaining or applying to obtain a residential mortgage loan by, among other things, advising on loan terms, including rates, fees, and other costs; offers or negotiates terms of a residential mortgage loan; or issues or offers to issue a commitment for a residential mortgage loan. "Loan officer" also includes a mortgage loan originator as defined in division ~~(E)(1)-(Z)~~ of section 1322.01 of the Revised Code.

(2) "Loan officer" 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 (a) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (b) 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)(1) "Mortgage broker" means any of the following:

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

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

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

(2) "Mortgage broker" 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 (a) controls, is controlled by, or is under common control with, such a bank, savings bank, savings and loan association, or credit union and (b) 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. 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) (I) 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) (J) 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. 1349.43. (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 Chapter 1322.~~ 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~~ Chapter 1322, 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 notify the department 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~~ 1322.36 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~~ Chapter 1322, 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~~ Chapter 1322, 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~~ 1322.36 of the Revised Code, is confidential.

Sec. 1349.45. (A) As used in this section, "financial institution" means any bank, savings and loan association, savings bank, or credit union; any affiliate or subsidiary of a bank, savings and loan association, savings bank, or credit union; ~~or any registrant as defined in section 1321.51 of the Revised Code; or any person registered as a mortgage lender under Chapter 1322. of the Revised Code.~~

(B) No person shall use the name or logo of any financial institution in connection with the sale, offering for sale, distribution, or advertising of any product or service without the express written consent of the financial institution, if such use is misleading or deceptive as to the source of origin or sponsorship of, or the affiliation with, the product or service.

Sec. 1349.99. (A) Whoever violates section 1349.06 or 1349.17 of the Revised Code is guilty of a minor misdemeanor.

(B)(1) Whoever violates section 1349.45 of the Revised Code is guilty of a misdemeanor of the first degree.

(2) Notwithstanding division (B)(1) of this section, the only remedies that are available for a violation of section 1349.45 of the Revised Code by a registrant or licensee under ~~sections 1322.01 to 1322.12~~ Chapter 1322, of the Revised Code are those set forth in section ~~1322.10~~ 1322.50 of the

Revised Code or otherwise provided by statute or common law.

(3) The provisions of division (B) of this section are not intended to be exclusive remedies and do not preclude the use of any other remedy provided by law.

Sec. 2923.31. As used in sections 2923.31 to 2923.36 of the Revised Code:

(A) "Beneficial interest" means any of the following:

(1) The interest of a person as a beneficiary under a trust in which the trustee holds title to personal or real property;

(2) The interest of a person as a beneficiary under any other trust arrangement under which any other person holds title to personal or real property for the benefit of such person;

(3) The interest of a person under any other form of express fiduciary arrangement under which any other person holds title to personal or real property for the benefit of such person.

"Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in either a general or limited partnership.

(B) "Costs of investigation and prosecution" and "costs of investigation and litigation" mean all of the costs incurred by the state or a county or municipal corporation under sections 2923.31 to 2923.36 of the Revised Code in the prosecution and investigation of any criminal action or in the litigation and investigation of any civil action, and includes, but is not limited to, the costs of resources and personnel.

(C) "Enterprise" includes any individual, sole proprietorship, partnership, limited partnership, corporation, trust, union, government agency, or other legal entity, or any organization, association, or group of persons associated in fact although not a legal entity. "Enterprise" includes illicit as well as licit enterprises.

(D) "Innocent person" includes any bona fide purchaser of property that is allegedly involved in a violation of section 2923.32 of the Revised Code, including any person who establishes a valid claim to or interest in the property in accordance with division (E) of section 2981.04 of the Revised Code, and any victim of an alleged violation of that section or of any underlying offense involved in an alleged violation of that section.

(E) "Pattern of corrupt activity" means two or more incidents of corrupt activity, whether or not there has been a prior conviction, that are related to the affairs of the same enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event.

At least one of the incidents forming the pattern shall occur on or after January 1, 1986. Unless any incident was an aggravated murder or murder, the last of the incidents forming the pattern shall occur within six years after the commission of any prior incident forming the pattern, excluding any period of imprisonment served by any person engaging in the corrupt activity.

For the purposes of the criminal penalties that may be imposed pursuant to section 2923.32 of the Revised Code, at least one of the incidents forming the pattern shall constitute a felony under the laws of this state in existence at the time it was committed or, if committed in violation of the laws of the United States or of any other state, shall constitute a felony under the law of the United States or the other state and would be a criminal offense under the law of this state if committed in this state.

(F) "Pecuniary value" means money, a negotiable instrument, a commercial interest, or anything of value, as defined in section 1.03 of the Revised Code, or any other property or service

that has a value in excess of one hundred dollars.

(G) "Person" means any person, as defined in section 1.59 of the Revised Code, and any governmental officer, employee, or entity.

(H) "Personal property" means any personal property, any interest in personal property, or any right, including, but not limited to, bank accounts, debts, corporate stocks, patents, or copyrights. Personal property and any beneficial interest in personal property are deemed to be located where the trustee of the property, the personal property, or the instrument evidencing the right is located.

(I) "Corrupt activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the following:

(1) Conduct defined as "racketeering activity" under the "Organized Crime Control Act of 1970," 84 Stat. 941, 18 U.S.C. 1961(1)(B), (1)(C), (1)(D), and (1)(E), as amended;

(2) Conduct constituting any of the following:

(a) A violation of section 1315.55, ~~1322.02~~ 1322.07, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2905.11, 2905.22, 2905.32 as specified in division (I)(2)(g) of this section, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, or 2923.17; division (F)(1)(a), (b), or (c) of section 1315.53; division (A)(1) or (2) of section 1707.042; division (B), (C)(4), (D), (E), or (F) of section 1707.44; division (A)(1) or (2) of section 2923.20; division (E) or (G) of section 3772.99; division (J)(1) of section 4712.02; section 4719.02, 4719.05, or 4719.06; division (C), (D), or (E) of section 4719.07; section 4719.08; or division (A) of section 4719.09 of the Revised Code.

(b) Any violation of section 3769.11, 3769.15, 3769.16, or 3769.19 of the Revised Code as it existed prior to July 1, 1996, any violation of section 2915.02 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would have been a violation of section 3769.11 of the Revised Code as it existed prior to that date, or any violation of section 2915.05 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would have been a violation of section 3769.15, 3769.16, or 3769.19 of the Revised Code as it existed prior to that date.

(c) Any violation of section 2907.21, 2907.22, 2907.31, 2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37 of the Revised Code, any violation of section 2925.11 of the Revised Code that is a felony of the first, second, third, or fourth degree and that occurs on or after July 1, 1996, any violation of section 2915.02 of the Revised Code that occurred prior to July 1, 1996, any violation of section 2915.02 of the Revised Code that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would not have been a violation of section 3769.11 of the Revised Code as it existed prior to that date, any violation of section 2915.06 of the Revised Code as it existed prior to July 1, 1996, or any violation of division (B) of section 2915.05 of the Revised Code as it exists on and after July 1, 1996, when the proceeds of the violation, the payments made in the violation, the amount of a claim for payment or for any other benefit that is false or deceptive and that is involved in the violation, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation exceeds one thousand dollars, or any combination of violations described in division (I)(2)(c) of this

section when the total proceeds of the combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds one thousand dollars;

(d) Any violation of section 5743.112 of the Revised Code when the amount of unpaid tax exceeds one hundred dollars;

(e) Any violation or combination of violations of section 2907.32 of the Revised Code involving any material or performance containing a display of bestiality or of sexual conduct, as defined in section 2907.01 of the Revised Code, that is explicit and depicted with clearly visible penetration of the genitals or clearly visible penetration by the penis of any orifice when the total proceeds of the violation or combination of violations, the payments made in the violation or combination of violations, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation or combination of violations exceeds one thousand dollars;

(f) Any combination of violations described in division (I)(2)(c) of this section and violations of section 2907.32 of the Revised Code involving any material or performance containing a display of bestiality or of sexual conduct, as defined in section 2907.01 of the Revised Code, that is explicit and depicted with clearly visible penetration of the genitals or clearly visible penetration by the penis of any orifice when the total proceeds of the combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds one thousand dollars;

(g) Any violation of section 2905.32 of the Revised Code to the extent the violation is not based solely on the same conduct that constitutes corrupt activity pursuant to division (I)(2)(c) of this section due to the conduct being in violation of section 2907.21 of the Revised Code.

(3) Conduct constituting a violation of any law of any state other than this state that is substantially similar to the conduct described in division (I)(2) of this section, provided the defendant was convicted of the conduct in a criminal proceeding in the other state;

(4) Animal or ecological terrorism;

(5)(a) Conduct constituting any of the following:

(i) Organized retail theft;

(ii) Conduct that constitutes one or more violations of any law of any state other than this state, that is substantially similar to organized retail theft, and that if committed in this state would be organized retail theft, if the defendant was convicted of or pleaded guilty to the conduct in a criminal proceeding in the other state.

(b) By enacting division (I)(5)(a) of this section, it is the intent of the general assembly to add organized retail theft and the conduct described in division (I)(5)(a)(ii) of this section as conduct constituting corrupt activity. The enactment of division (I)(5)(a) of this section and the addition by division (I)(5)(a) of this section of organized retail theft and the conduct described in division (I)(5)(a)(ii) of this section as conduct constituting corrupt activity does not limit or preclude, and shall not be construed as limiting or precluding, any prosecution for a violation of section 2923.32 of the Revised Code that is based on one or more violations of section 2913.02 or 2913.51 of the Revised

Code, one or more similar offenses under the laws of this state or any other state, or any combination of any of those violations or similar offenses, even though the conduct constituting the basis for those violations or offenses could be construed as also constituting organized retail theft or conduct of the type described in division (I)(5)(a)(ii) of this section.

(J) "Real property" means any real property or any interest in real property, including, but not limited to, any lease of, or mortgage upon, real property. Real property and any beneficial interest in it is deemed to be located where the real property is located.

(K) "Trustee" means any of the following:

(1) Any person acting as trustee under a trust in which the trustee holds title to personal or real property;

(2) Any person who holds title to personal or real property for which any other person has a beneficial interest;

(3) Any successor trustee.

"Trustee" does not include an assignee or trustee for an insolvent debtor or an executor, administrator, administrator with the will annexed, testamentary trustee, guardian, or committee, appointed by, under the control of, or accountable to a court.

(L) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted in violation of any federal or state law relating to the business of gambling activity or relating to the business of lending money at an usurious rate unless the creditor proves, by a preponderance of the evidence, that the usurious rate was not intentionally set and that it resulted from a good faith error by the creditor, notwithstanding the maintenance of procedures that were adopted by the creditor to avoid an error of that nature.

(M) "Animal activity" means any activity that involves the use of animals or animal parts, including, but not limited to, hunting, fishing, trapping, traveling, camping, the production, preparation, or processing of food or food products, clothing or garment manufacturing, medical research, other research, entertainment, recreation, agriculture, biotechnology, or service activity that involves the use of animals or animal parts.

(N) "Animal facility" means a vehicle, building, structure, nature preserve, or other premises in which an animal is lawfully kept, handled, housed, exhibited, bred, or offered for sale, including, but not limited to, a zoo, rodeo, circus, amusement park, hunting preserve, or premises in which a horse or dog event is held.

(O) "Animal or ecological terrorism" means the commission of any felony that involves causing or creating a substantial risk of physical harm to any property of another, the use of a deadly weapon or dangerous ordnance, or purposely, knowingly, or recklessly causing serious physical harm to property and that involves an intent to obstruct, impede, or deter any person from participating in a lawful animal activity, from mining, foresting, harvesting, gathering, or processing natural resources, or from being lawfully present in or on an animal facility or research facility.

(P) "Research facility" means a place, laboratory, institution, medical care facility, government facility, or public or private educational institution in which a scientific test, experiment, or investigation involving the use of animals or other living organisms is lawfully carried out, conducted, or attempted.



(Q) "Organized retail theft" means the theft of retail property with a retail value of one thousand dollars or more from one or more retail establishments with the intent to sell, deliver, or transfer that property to a retail property fence.

(R) "Retail property" means any tangible personal property displayed, held, stored, or offered for sale in or by a retail establishment.

(S) "Retail property fence" means a person who possesses, procures, receives, or conceals retail property that was represented to the person as being stolen or that the person knows or believes to be stolen.

(T) "Retail value" means the full retail value of the retail property. In determining whether the retail value of retail property equals or exceeds one thousand dollars, the value of all retail property stolen from the retail establishment or retail establishments by the same person or persons within any one-hundred-eighty-day period shall be aggregated.

Sec. 4712.01. As used in sections 4712.01 to 4712.14 of the Revised Code:

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

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

(C)(1) "Credit services organization" means any person that, in return for the payment of money or other valuable consideration readily convertible into money for the following services, sells, provides, or performs, or represents that the person can or will sell, provide, or perform, one or more of the following services:

- (a) Improving a buyer's credit record, history, or rating;
- (b) Obtaining an extension of credit by others for a buyer;
- (c) Providing advice or assistance to a buyer in connection with division (C)(1)(a) or (b) of this section;
- (d) Removing adverse credit information that is accurate and not obsolete from the buyer's credit record, history, or rating;
- (e) Altering the buyer's identification to prevent the display of the buyer's credit record, history, or rating.

(2) "Credit services organization" does not include any of the following:

(a) A person that makes or collects loans, to the extent these activities are subject to licensure or registration by this state;

(b) A mortgage broker, as defined in section 1322.01 of the Revised Code, that holds a valid certificate of registration under ~~sections 1322.01 to 1322.12~~ Chapter 1322. of the Revised Code;

(c) A lender approved by the United States secretary of housing and urban development for participation in a mortgage insurance program under the "National Housing Act," 48 Stat. 1246 (1934), 12 U.S.C.A. 1701, as amended;

(d) A bank, savings bank, or savings and loan association, or a subsidiary or an affiliate of a bank, savings bank, or savings and loan association. For purposes of division (C)(2)(d) of this section, "affiliate" has the same meaning as in division (A) of section 1101.01 of the Revised Code and "bank," as used in division (A) of section 1101.01 of the Revised Code, is deemed to include a

savings bank or savings and loan association.

(e) A credit union organized and qualified under Chapter 1733. of the Revised Code or the "Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, as amended;

(f) 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;

(g) 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.

(h) A mortgage banker;

(i) 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;

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

(k) A motor vehicle dealer licensed pursuant to Chapter 4517. of the Revised Code acting within the scope and authority of that license or a motor vehicle auction owner licensed pursuant to Chapters 4517. and 4707. of the Revised Code acting within the scope and authority of that license;

(l) An attorney at law admitted to the practice of law in this state who offers, provides, or performs a legal service that is privileged by reason of the attorney-client relationship, provided that the service is not a service described in division (C)(1)(b) or (e) of this section.

(D) "Extension of credit" means the right to defer payment of debt, or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes. "Extension of credit" does not include a mortgage.

(E) "Mortgage" means any indebtedness secured by a deed of trust, security deed, or other lien on real property.

(F) "Mortgage banker" means any person that makes, services, or buys and sells mortgage loans and is approved by the United States department of housing and urban development, the United States department of veterans affairs, the federal national mortgage association, or the federal home loan mortgage corporation.

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

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of the Revised Code:

(1) "Affiliate" means a business entity that is owned by, operated by, controlled by, or under common control with another business entity.

(2) "Communication" means a written or oral notification or advertisement that meets both of the following criteria, as applicable:

(a) The notification or advertisement is transmitted by or on behalf of the seller of goods or services and by or through any printed, audio, video, cinematic, telephonic, or electronic means.

(b) In the case of a notification or advertisement other than by telephone, either of the following conditions is met:

(i) The notification or advertisement is followed by a telephone call from a telephone solicitor or salesperson.

(ii) The notification or advertisement invites a response by telephone, and, during the course of that response, a telephone solicitor or salesperson attempts to make or makes a sale of goods or services. As used in division (A)(2)(b)(ii) of this section, "invites a response by telephone" excludes the mere listing or inclusion of a telephone number in a notification or advertisement.

(3) "Gift, award, or prize" means anything of value that is offered or purportedly offered, or given or purportedly given by chance, at no cost to the receiver and with no obligation to purchase goods or services. As used in this division, "chance" includes a situation in which a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telephone solicitor does not identify the specific item that the person will receive.

(4) "Goods or services" means any real property or any tangible or intangible personal property, or services of any kind provided or offered to a person. "Goods or services" includes, but is not limited to, advertising; labor performed for the benefit of a person; personal property intended to be attached to or installed in any real property, regardless of whether it is so attached or installed; timeshare estates or licenses; and extended service contracts.

(5) "Purchaser" means a person that is solicited to become or does become financially obligated as a result of a telephone solicitation.

(6) "Salesperson" means an individual who is employed, appointed, or authorized by a telephone solicitor to make telephone solicitations but does not mean any of the following:

(a) An individual who comes within one of the exemptions in division (B) of this section;

(b) An individual employed, appointed, or authorized by a person who comes within one of the exemptions in division (B) of this section;

(c) An individual under a written contract with a person who comes within one of the exemptions in division (B) of this section, if liability for all transactions with purchasers is assumed by the person so exempted.

(7) "Telephone solicitation" means a communication to a person that meets both of the following criteria:

(a) The communication is initiated by or on behalf of a telephone solicitor or by a salesperson.

(b) The communication either represents a price or the quality or availability of goods or services or is used to induce the person to purchase goods or services, including, but not limited to, inducement through the offering of a gift, award, or prize.

(8) "Telephone solicitor" means a person that engages in telephone solicitation directly or through one or more salespersons either from a location in this state, or from a location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a business.

(B) A telephone solicitor is exempt from the provisions of sections 4719.02 to 4719.18 and section 4719.99 of the Revised Code if the telephone solicitor is any one of the following:

(1) A person engaging in a telephone solicitation that is a one-time or infrequent transaction not done in the course of a pattern of repeated transactions of a like nature;

(2) A person engaged in telephone solicitation solely for religious or political purposes; a charitable organization, fund-raising counsel, or professional solicitor in compliance with the

registration and reporting requirements of Chapter 1716. of the Revised Code; or any person or other entity exempt under section 1716.03 of the Revised Code from filing a registration statement under section 1716.02 of the Revised Code;

(3) A person, making a telephone solicitation involving a home solicitation sale as defined in section 1345.21 of the Revised Code, that makes the sales presentation and completes the sale at a later, face-to-face meeting between the seller and the purchaser rather than during the telephone solicitation. However, if the person, following the telephone solicitation, causes another person to collect the payment of any money, this exemption does not apply.

(4) A licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person when making a telephone solicitation within the scope of the person's license. As used in division (B)(4) of this section, "licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person" means a person subject to licensure or registration as such by the securities and exchange commission; the National Association of Securities Dealers or other self-regulatory organization, as defined by 15 U.S.C.A. 78c; by the division of securities under Chapter 1707. of the Revised Code; or by an official or agency of any other state of the United States.

(5)(a) A person primarily engaged in soliciting the sale of a newspaper of general circulation;

(b) As used in division (B)(5)(a) of this section, "newspaper of general circulation" includes, but is not limited to, both of the following:

(i) A newspaper that is a daily law journal designated as an official publisher of court calendars pursuant to section 2701.09 of the Revised Code;

(ii) A newspaper or publication that has at least twenty-five per cent editorial, non-advertising content, exclusive of inserts, measured relative to total publication space, and an audited circulation to at least fifty per cent of the households in the newspaper's retail trade zone as defined by the audit.

(6)(a) An issuer, or its subsidiary, that has a class of securities to which all of the following apply:

(i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A. 78l, and is registered or is exempt from registration under 15 U.S.C.A. 78l(g)(2)(A), (B), (C), (E), (F), (G), or (H);

(ii) The class of securities is listed on the New York stock exchange, the American stock exchange, or the NASDAQ national market system;

(iii) The class of securities is a reported security as defined in 17 C.F.R. 240.11Aa3-1(a)(4).

(b) An issuer, or its subsidiary, that formerly had a class of securities that met the criteria set forth in division (B)(6)(a) of this section if the issuer, or its subsidiary, has a net worth in excess of one hundred million dollars, files or its parent files with the securities and exchange commission an S.E.C. form 10-K, and has continued in substantially the same business since it had a class of securities that met the criteria in division (B)(6)(a) of this section. As used in division (B)(6)(b) of this section, "issuer" and "subsidiary" include the successor to an issuer or subsidiary.

(7) A person soliciting a transaction regulated by the commodity futures trading commission, if the person is registered or temporarily registered for that activity with the commission under 7 U.S.C.A. 1 et. seq. and the registration or temporary registration has not expired or been suspended or revoked;

(8) A person soliciting the sale of any book, record, audio tape, compact disc, or video, if the person allows the purchaser to review the merchandise for at least seven days and provides a full refund within thirty days to a purchaser who returns the merchandise or if the person solicits the sale on behalf of a membership club operating in compliance with regulations adopted by the federal trade commission in 16 C.F.R. 425;

(9) A supervised financial institution or its subsidiary. As used in division (B)(9) of this section, "supervised financial institution" means a bank, trust company, savings and loan association, savings bank, credit union, industrial loan company, consumer finance lender, commercial finance lender, or institution described in section 2(c)(2)(F) of the "Bank Holding Company Act of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an official or agency of the United States, this state, or any other state of the United States; or a licensee or registrant under sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 1321.83, or Chapter 1322. of the Revised Code.

(10)(a) An insurance company, association, or other organization that is licensed or authorized to conduct business in this state by the superintendent of insurance pursuant to Title XXXIX of the Revised Code or Chapter 1751. of the Revised Code, when soliciting within the scope of its license or authorization.

(b) A licensed insurance broker, agent, or solicitor when soliciting within the scope of the person's license. As used in division (B)(10)(b) of this section, "licensed insurance broker, agent, or solicitor" means any person licensed as an insurance broker, agent, or solicitor by the superintendent of insurance pursuant to Title XXXIX of the Revised Code.

(11) A person soliciting the sale of services provided by a cable television system operating under authority of a governmental franchise or permit;

(12) A person soliciting a business-to-business sale under which any of the following conditions are met:

(a) The telephone solicitor has been operating continuously for at least three years under the same business name under which it solicits purchasers, and at least fifty-one per cent of its gross dollar volume of sales consists of repeat sales to existing customers to whom it has made sales under the same business name.

(b) The purchaser business intends to resell the goods purchased.

(c) The purchaser business intends to use the goods or services purchased in a recycling, reuse, manufacturing, or remanufacturing process.

(d) The telephone solicitor is a publisher of a periodical or of magazines distributed as controlled circulation publications as defined in division (CC) of section 5739.01 of the Revised Code and is soliciting sales of advertising, subscriptions, reprints, lists, information databases, conference participation or sponsorships, trade shows or media products related to the periodical or magazine, or other publishing services provided by the controlled circulation publication.

(13) A person that, not less often than once each year, publishes and delivers to potential purchasers a catalog that complies with both of the following:

(a) It includes all of the following:

(i) The business address of the seller;

(ii) A written description or illustration of each good or service offered for sale;

(iii) A clear and conspicuous disclosure of the sale price of each good or service; shipping,

handling, and other charges; and return policy.

(b) One of the following applies:

(i) The catalog includes at least twenty-four pages of written material and illustrations, is distributed in more than one state, and has an annual postage-paid mail circulation of not less than two hundred fifty thousand households;

(ii) The catalog includes at least ten pages of written material or an equivalent amount of material in electronic form on the internet or an on-line computer service, the person does not solicit customers by telephone but solely receives telephone calls made in response to the catalog, and during the calls the person takes orders but does not engage in further solicitation of the purchaser. As used in division (B)(13)(b)(ii) of this section, "further solicitation" does not include providing the purchaser with information about, or attempting to sell, any other item in the catalog that prompted the purchaser's call or in a substantially similar catalog issued by the seller.

(14) A political subdivision or instrumentality of the United States, this state, or any state of the United States;

(15) A college or university or any other public or private institution of higher education in this state;

(16) A public utility as defined in section 4905.02 of the Revised Code or a retail natural gas supplier as defined in section 4929.01 of the Revised Code, if the utility or supplier is subject to regulation by the public utilities commission, or the affiliate of the utility or supplier;

(17) A person that solicits sales through a television program or advertisement that is presented in the same market area no fewer than twenty days per month or offers for sale no fewer than ten distinct items of goods or services; and offers to the purchaser an unconditional right to return any good or service purchased within a period of at least seven days and to receive a full refund within thirty days after the purchaser returns the good or cancels the service;

(18)(a) A person that, for at least one year, has been operating a retail business under the same name as that used in connection with telephone solicitation and both of the following occur on a continuing basis:

(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises.

(ii) At least fifty-one per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises.

(b) An affiliate of a person that meets the requirements in division (B)(18)(a) of this section if the affiliate meets all of the following requirements:

(i) The affiliate has operated a retail business for a period of less than one year;

(ii) The affiliate either displays goods and offers them for retail sale at the affiliate's business premises or offers services for sale and provides them at the affiliate's business premises;

(iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or services at the affiliate's business premises.

(c) A person that, for a period of less than one year, has been operating a retail business in this state under the same name as that used in connection with telephone solicitation, as long as all of the following requirements are met:

(i) The person either displays goods and offers them for retail sale at the person's business

premises or offers services for sale and provides them at the person's business premises;

(ii) The goods or services that are the subject of telephone solicitation are sold at the person's business premises, and at least sixty-five per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises;

(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310.

(19) A person who performs telephone solicitation sales services on behalf of other persons and to whom one of the following applies:

(a) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least seventy-five per cent of its gross revenues from written telephone solicitation contracts with persons who come within one of the exemptions in division (B) of this section.

(b) The person is an affiliate of one or more exempt persons and makes telephone solicitations on behalf of only the exempt persons of which it is an affiliate.

(c) The person makes telephone solicitations on behalf of only exempt persons, the person and each exempt person on whose behalf telephone solicitations are made have entered into a written contract that specifies the manner in which the telephone solicitations are to be conducted and that at a minimum requires compliance with the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310, and the person conducts the telephone solicitations in the manner specified in the written contract.

(d) The person performs telephone solicitation for religious or political purposes, a charitable organization, a fund-raising council, or a professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; and meets all of the following requirements:

(i) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least fifty-one per cent of its gross revenues from written telephone solicitation contracts with persons who come within the exemption in division (B)(2) of this section;

(ii) The person does not conduct a prize promotion or offer the sale of an investment opportunity;

(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310.

(20) A person that is a licensed real estate salesperson or broker under Chapter 4735. of the Revised Code when soliciting within the scope of the person's license;

(21)(a) Either of the following:

(i) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature on behalf of a publisher under a written agreement directly between the publisher and the person.

(ii) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature as authorized by a publisher under a written

agreement directly with a publisher's clearinghouse provided the person is a resident of Ohio for more than three years and initiates all telephone solicitations from Ohio and the person conducts the solicitation and sale in compliance with 16 C.F.R. part 310, as adopted by the federal trade commission.

(b) As used in division (B)(21) of this section, "periodical or magazine of general, paid circulation" excludes a periodical or magazine circulated only as part of a membership package or given as a free gift or prize from the publisher or person.

(22) A person that solicits the sale of food, as defined in section 3715.01 of the Revised Code, or the sale of products of horticulture, as defined in section 5739.01 of the Revised Code, if the person does not intend the solicitation to result in, or the solicitation actually does not result in, a sale that costs the purchaser an amount greater than five hundred dollars.

(23) A funeral director licensed pursuant to Chapter 4717. of the Revised Code when soliciting within the scope of that license, if both of the following apply:

(a) The solicitation and sale are conducted in compliance with 16 C.F.R. part 453, as adopted by the federal trade commission, and with sections 1107.33 and 1345.21 to 1345.28 of the Revised Code;

(b) The person provides to the purchaser of any preneed funeral contract a notice that clearly and conspicuously sets forth the cancellation rights specified in division (G) of section 1107.33 of the Revised Code, and retains a copy of the notice signed by the purchaser.

(24) A person, or affiliate thereof, licensed to sell or issue Ohio instruments designated as travelers checks pursuant to sections 1315.01 to 1315.18 of the Revised Code.

(25) A person that solicits sales from its previous purchasers and meets all of the following requirements:

(a) The solicitation is made under the same business name that was previously used to sell goods or services to the purchaser;

(b) The person has, for a period of not less than three years, operated a business under the same business name as that used in connection with telephone solicitation;

(c) The person does not conduct a prize promotion or offer the sale of an investment opportunity;

(d) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310;

(e) Neither the person nor any of its principals has been convicted of, pleaded guilty to, or has entered a plea of no contest for a felony or a theft offense as defined in sections 2901.02 and 2913.01 of the Revised Code or similar law of another state or of the United States;

(f) Neither the person nor any of its principals has had entered against them an injunction or a final judgment or order, including an agreed judgment or order, an assurance of voluntary compliance, or any similar instrument, in any civil or administrative action involving engaging in a pattern of corrupt practices, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property; the use of any untrue, deceptive, or misleading representation; or the use of any unfair, unlawful, deceptive, or unconscionable trade act or practice.

(26) An institution defined as a home health agency in section 3701.881 of the Revised Code,



that conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310, and engages in telephone solicitation only within the scope of the institution's certification, accreditation, contract with the department of aging, or status as a home health agency; and that meets one of the following requirements:

(a) The institution is certified as a provider of home health services under Title XVIII of the Social Security Act, 49 Stat. 620, 42 U.S.C. 301, as amended;

(b) The institution is accredited by either the joint commission on accreditation of health care organizations or the community health accreditation program;

(c) The institution is providing PASSPORT services under the direction of the department of aging under sections 173.52 to 173.523 of the Revised Code;

(d) An affiliate of an institution that meets the requirements of division (B)(26)(a), (b), or (c) of this section when offering for sale substantially the same goods and services as those that are offered by the institution that meets the requirements of division (B)(26)(a), (b), or (c) of this section.

(27) A person licensed by the department of health pursuant to section 3712.04 or 3712.041 of the Revised Code to provide a hospice care program or pediatric respite care program when conducting telephone solicitations within the scope of the person's license and according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310.

Sec. 4728.11. This chapter does not apply to any of the following:

(A) Any purchase of an article that is made of or contains gold, silver, platinum, or other precious metals or jewels of any description if both the buyer and seller, or the respective agents, brokers, or other intermediaries of both the buyer and seller, deal in such articles or otherwise by their respective occupations, or by their respective avocations as collectors, speculators, or investors, hold themselves out as having knowledge or skill peculiar to such articles or the practices involved in their purchase or sale;

(B) Licensees who obtain licenses under sections 1321.01 to 1321.19 of the Revised Code ~~or~~ registrants who obtain certificates of registration under sections 1321.51 to 1321.60 of the Revised Code, or persons registered as mortgage lenders under Chapter 1322. of the Revised Code;

(C) National banks, state banks, credit unions, or savings and loan associations;

(D) The holder of a salvage motor vehicle dealer's license under Chapter 4738. of the Revised Code who purchases or sells precious metal which, in its original form, is a motor vehicle component part, or a scrap metal processor subject to Chapter 4737. of the Revised Code;

(E) Any purchase of silverware or an article of jewelry made of or containing gold, silver, platinum, or other precious metals or jewels that is made by a person who complies with all of the following:

(1) The person is engaged in the business of selling, at retail, articles of jewelry and silverware;

(2) The person holds a valid vendor's license issued under section 5739.17 of the Revised Code;

(3) The person maintains a fixed place of business in this state at which the person regularly exhibits articles of jewelry and silverware that are for sale at retail;

(4) The person establishes to the satisfaction of the superintendent of financial institutions or the chief or head of the local police department, upon their request, that the person's purchases of silverware and articles of jewelry that are made of or contain gold, silver, platinum, or other precious metals or jewels are incidental to the person's primary business as described in division (E)(1) of this section. Such purchases are "incidental" if:

(a) In the case of a person who has been in business for less than one year, the average monthly value of the person's purchases of jewelry from the public represents less than twenty-five per cent of the person's total inventory of articles of jewelry held for sale at retail to the public, as computed under section 5711.15 of the Revised Code;

(b) In the case of a person who has been in business for at least one year, the total value of the person's purchases of jewelry from the public represents less than twenty-five per cent of the person's total retail sales of articles of jewelry to the public during the immediately preceding year;

(c) The purchases are of items described in division (F) of this section.

(F) Any purchase of coins, hallmark bars, registered ingots, and other items as numismatic objects, and not for their content of precious metals.

(G) Any purchase made under the supervision of a probate court from the estate of a decedent as provided under section 2113.40 of the Revised Code.

(H) Except as specified in division (B) of section 4728.02 of the Revised Code, any person licensed under Chapter 4727. 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, 4735.052, 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.

(5) In conjunction with the enforcement of this chapter, issue advisory letters in lieu of initiating disciplinary action under section 4735.051 or 4735.052 of the Revised Code or issuing a citation under section 4735.16 or 4735.181 of the Revised Code.

(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~~ Chapter 1322, 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 the educational requirements pursuant to division (C) 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) Prescribe by rule the requirements for the examinations required by division (D) of section 4763.05 of the Revised Code;

(3) Periodically review the standards for the development and reporting of appraisal reports 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 disciplinary action of a certificate holder, licensee, or registrant under section 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~~ Chapter 1322. 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.

(F) Any rule the board adopts shall not exceed the requirements specified in federal law or regulations.

SECTION 2. That existing sections 9.02, 109.572, 1181.21, 1181.25, 1315.21, 1319.12, 1321.02, 1321.51, 1321.52, 1321.53, 1321.54, 1321.55, 1321.551, 1321.57, 1321.58, 1321.59, 1321.60, 1321.631, 1321.72, 1321.99, 1322.01, 1322.02, 1322.021, 1322.023, 1322.024, 1322.025, 1322.03, 1322.031, 1322.04, 1322.041, 1322.042, 1322.043, 1322.05, 1322.051, 1322.052, 1322.06, 1322.061, 1322.065, 1322.07, 1322.072, 1322.073, 1322.074, 1322.075, 1322.081, 1322.09, 1322.10, 1322.101, 1322.11, 1322.12, 1322.99, 1329.71, 1335.02, 1345.01, 1349.27, 1349.43, 1349.44, 1349.45, 1349.99, 2923.31, 4712.01, 4719.01, 4728.11, 4735.05, and 4763.03 and sections 1321.521, 1321.522, 1321.531, 1321.532, 1321.533, 1321.534, 1321.535, 1321.536, 1321.537, 1321.538, 1321.552, 1321.592, 1321.593, 1321.594, 1322.022, 1322.062, 1322.063, 1322.064, 1322.071, and 1322.08 of the Revised Code are hereby repealed.

SECTION 3. (A) The Superintendent of Financial Institutions may take actions necessary to ensure full compliance with this act, including actions to facilitate the transition of existing registrants and licensees and those persons holding valid letters of exemption as of the effective date of this act.

(B) Persons holding a valid mortgage lender certificate of registration or mortgage loan originator license issued under sections 1321.51 to 1321.60 of the Revised Code as of the effective date of this act and persons holding a valid mortgage broker certificate of registration or loan originator license issued under Chapter 1322. of the Revised Code as of the effective date of this act, shall not be required to be registered or licensed under section 1322.07 or 1322.20 of the Revised Code, as amended by this act, until the first renewal of that certificate of registration or license after that date. The Superintendent may treat the applications submitted by those persons as renewal applications, and may use prior application materials as the basis for issuing registrations, licenses, and letters of exemption after the effective date of this act.

SECTION 4. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Sections 1322.03 and 1322.031 of the Revised Code as amended by Am. Sub. H.B. 487 of the 129th General Assembly and Am. Sub. H.B. 483 of the 130th General Assembly.

Section 2923.31 of the Revised Code as amended by both Am. Sub. H.B. 386 and Am. Sub. H.B. 262 of the 129th General Assembly.

---

*Speaker* \_\_\_\_\_ *of the House of Representatives.*

---

*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

---

*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

---

*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

---

*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_