

**As Passed by the House**

**133rd General Assembly**

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**Sub. H. B. No. 38**

**Representative Hillyer**

**Cosponsors: Representatives Cross, Hood, Miller, J., Riedel, Weinstein, Boyd, Carruthers, Crossman, Denson, Edwards, Galonski, Ghanbari, Hambley, Holmes, A., Ingram, Lanese, Leland, Lightbody, Miranda, Reineke, Robinson, Roemer, Rogers, Seitz, Sheehy, Stein, Strahorn, Swearingen, West**

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**A BILL**

To amend sections 1321.52, 1322.01, 1322.07,  
1322.09, 1322.12, 1322.29, 1349.72, and 2913.11;  
to enact section 1319.17; and to repeal section  
1349.16 of the Revised Code relating to  
commercial credit reports, the General Loan Law,  
and the Residential Mortgage Loan Law.

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

**Section 1.** That sections 1321.52, 1322.01, 1322.07,  
1322.09, 1322.12, 1322.29, 1349.72, and 2913.11 be amended and  
section 1319.17 of the Revised Code be enacted to read as  
follows:

**Sec. 1319.17.** (A) As used in this section:

(1) "Business" means a sole proprietorship, partnership,  
corporation, limited liability company, or other commercial  
entity, whether for profit or not for profit.

(2) "Commercial credit report" means any report provided

to a business for a legitimate business purpose, relating to the 16  
financial status or payment habits of a business that is the 17  
subject of the report. "Commercial credit report" does not 18  
include any of the following: 19

(a) A report prepared for commercial insurance 20  
underwriting, claims, or auditing purposes; 21

(b) A report containing information related to 22  
transactions or experiences between the subject and the person 23  
making the report; 24

(c) An authorization or approval of a specific extension 25  
of credit directly or indirectly by the issuer of a credit card 26  
or similar device; 27

(d) Any report in which a person that has been requested 28  
by a third party to make a specific extension of credit directly 29  
or indirectly to the subject conveys its decision with respect 30  
to that request. 31

(3) "Commercial credit reporting agency" means any person 32  
or entity that regularly engages in the practice of compiling 33  
and maintaining commercial credit reports on a business 34  
operating in this state for the purpose of providing commercial 35  
credit reports and, for monetary fees, dues, or on a cooperative 36  
nonprofit basis, provides such commercial credit reports on a 37  
business operating in this state to third parties. 38

"Commercial credit reporting agency" does not include a 39  
person or entity that does not maintain a database of commercial 40  
credit reports from which new commercial credit reports are 41  
produced. 42

(4) "Subject" means the business operating in this state 43  
about which a commercial credit report has been compiled. 44

(B) Upon the request of a representative of the subject of 45  
a commercial credit report, a commercial credit reporting agency 46  
shall provide the subject's commercial credit report. The report 47  
shall be provided to the subject at a cost not greater than what 48  
is charged to third parties and may be printed or in electronic 49  
form. The report shall be in a format routinely made available 50  
to third parties. A commercial credit reporting agency may 51  
protect the identity of sources of information to be used in 52  
commercial credit reports. 53

(C) Within thirty days after receipt of a commercial 54  
credit report, a representative of the subject of the report may 55  
file with the commercial credit reporting agency a written 56  
summary statement identifying each particular statement in the 57  
report that the subject of the report believes contains an 58  
inaccurate statement of fact and indicating the nature of the 59  
disagreement with the statement. Within thirty days after 60  
receipt of a subject's summary statement of disagreement, the 61  
commercial credit reporting agency at no cost to the subject 62  
shall do either of the following: 63

(1) Delete the disputed statement of fact from the report 64  
and, thereafter, block any repeat reporting of that disputed 65  
statement unless its accuracy has been verified; 66

(2) Include in the report a notice of the subject's 67  
assertion that the statement of fact is inaccurate. 68

(D) Nothing in this section shall be construed to provide 69  
a private right of action, including a class action, with 70  
respect to any act or practice regulated under this section. 71

**Sec. 1321.52.** (A) (1) A registrant may make loans, other 72  
than a residential mortgage loan as defined in section 1322.01 73

of the Revised Code, on terms and conditions provided by 74  
sections 1321.51 to 1321.60 of the Revised Code. 75

(2) Each person issued a certificate of registration is 76  
subject to all the rules prescribed under sections 1321.51 to 77  
1321.60 of the Revised Code. 78

(B) (1) All loans made to persons who at the time are 79  
residents of this state are considered as made within this state 80  
and subject to the laws of this state, regardless of any 81  
statement in the contract or note to the contrary, except if the 82  
loan is for the purpose of purchasing goods acquired by the 83  
borrower when the borrower is outside of this state, the loan 84  
may be governed by the laws of the other state. 85

(2) Nothing in division (B) (1) of this section prevents a 86  
choice of law or requires registration of persons outside of 87  
this state in a transaction involving the solicitation of 88  
residents of this state to obtain non-real estate secured loans 89  
that require the borrowers to physically visit a lender's out- 90  
of-state office to apply for and obtain the disbursement of loan 91  
funds. 92

(C) A registrant may make unsecured loans and loans 93  
secured by other than residential real estate or a dwelling as 94  
those terms are defined in section 1322.01 of the Revised Code. 95

(D) For the purpose of registering persons under and 96  
requiring compliance with sections 1321.51 to 1321.60 of the 97  
Revised Code, the superintendent may do any of the following: 98

(1) Require any person registered under or applying for 99  
registration under these sections to do both of the following: 100

(a) Utilize the national multistate licensing system for 101  
application, renewal, amendment, or surrender of a license or 102

<u>for any other activity as the superintendent may require;</u>	103
<u>(b) Pay all applicable charges to utilize the national</u>	104
<u>multistate licensing system.</u>	105
<u>(2) Establish requirements as necessary for the use of the</u>	106
<u>national multistate licensing system to meet the purposes of</u>	107
<u>these sections, including:</u>	108
<u>(a) Background checks for:</u>	109
<u>(i) Criminal history through fingerprint or other</u>	110
<u>databases;</u>	111
<u>(ii) Civil or administrative records;</u>	112
<u>(iii) Credit history;</u>	113
<u>(iv) Any other information considered necessary by the</u>	114
<u>national multistate licensing system or the superintendent.</u>	115
<u>(b) The payment of fees to apply for or renew licenses</u>	116
<u>through the multistate licensing system;</u>	117
<u>(c) The setting or resetting of renewal or reporting</u>	118
<u>dates;</u>	119
<u>(d) Requirements for amending or surrendering a license or</u>	120
<u>any other such activities as the superintendent considers</u>	121
<u>necessary for participation in the national multistate licensing</u>	122
<u>system.</u>	123
 <b>Sec. 1322.01.</b> As used in this chapter:	124
(A) "Administrative or clerical tasks" mean the receipt,	125
collection, and distribution of information common for the	126
processing or underwriting of a loan in the mortgage industry,	127
without performing any analysis of the information, and	128
communication with a consumer to obtain information necessary	129

for the processing or underwriting of a residential mortgage	130
loan.	131
(B) "Advertising" means a commercial message in any medium	132
that promotes, either directly or indirectly, a residential	133
mortgage lending transaction.	134
(C) "Application" has the same meaning as in 12 C.F.R.	135
1026.2(a)(3).	136
(D) "Approved education course" means any course approved	137
by the nationwide mortgage licensing system and registry.	138
(E) "Approved test provider" means any test provider	139
approved by the nationwide mortgage licensing system and	140
registry.	141
(F) "Borrower" means a person seeking a residential	142
mortgage loan or an obligor on a residential mortgage loan.	143
(G) "Branch office" means a location at which a licensee	144
conducts business other than a registrant's principal place of	145
business, if at least one of the following applies to the	146
location:	147
(1) The address of the location appears on business cards,	148
stationery, or advertising used by the registrant;	149
(2) The registrant's name or advertising at the location	150
suggests that mortgage transactions are made at the location;	151
(3) The location is held out to the public as a licensee's	152
place of business due to the actions of an employee or	153
independent contractor of the registrant; or	154
(4) The location within this state is controlled directly	155
or indirectly by the registrant.	156

(H) "Buyer" means an individual who is solicited to 157  
purchase or who purchases the services of a mortgage loan 158  
originator for purposes of obtaining a residential mortgage 159  
loan. "Buyer" includes an individual whose mortgage loan is 160  
serviced by a mortgage servicer. 161

(I) "Consumer reporting agency" has the same meaning as in 162  
the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 163  
1681a, as amended. 164

(J) "Control" means the power, directly or indirectly, to 165  
direct the management or policies of an entity, whether through 166  
ownership of securities, by contract, or otherwise. A person is 167  
presumed to control an entity if that person: 168

(1) Is a director, general partner, or executive officer 169  
or is an individual that occupies a similar position or performs 170  
a similar function; 171

(2) Directly or indirectly has the right to vote five per 172  
cent or more of a class of a voting security or has the power to 173  
sell or direct the sale of five per cent or more of a class of 174  
voting securities; 175

(3) In the case of a limited liability company, is a 176  
managing member; or 177

(4) In the case of a partnership, has the right to receive 178  
upon dissolution or has contributed five per cent or more of the 179  
capital. 180

(K) "Depository institution" has the same meaning as in 181  
section 3 of the "Federal Deposit Insurance Act," 12 U.S.C. 182  
1813(c), and also includes any credit union. 183

(L) "Dwelling" has the same meaning as in 15 U.S.C. 184

1602(w). "Dwelling" includes a single condominium unit, 185  
cooperative unit, mobile home, and trailer, if it is used as a 186  
residence, whether or not that structure is attached to real 187  
property. 188

(M) "Employee" means an individual for whom a mortgage 189  
broker or mortgage lender, in addition to providing a wage or 190  
salary, pays social security and unemployment taxes, provides 191  
workers' compensation coverage, and withholds local, state, and 192  
federal income taxes. "Employee" also includes any individual 193  
who acts as a mortgage loan originator or operations manager of 194  
a registrant, but for whom the registrant is prevented by law 195  
from making income tax withholdings. 196

(N) "Entity" means a business organization, including a 197  
sole proprietorship. 198

(O) "Expungement" means a court-ordered process that 199  
involves the destruction of documentation related to past 200  
arrests and convictions. 201

(P) "Federal banking agency" means the board of governors 202  
of the federal reserve system, the comptroller of the currency, 203  
the national credit union administration, or the federal deposit 204  
insurance corporation. 205

(Q) "Immediate family" means an individual's spouse, 206  
child, stepchild, parent, stepparent, grandparent, grandchild, 207  
brother, sister, parent-in-law, brother-in-law, or sister-in- 208  
law. 209

(R) "Independent contractor" means an individual who 210  
performs duties for another person and is not subject to that 211  
person's supervision or control. 212

(S) "Individual" means a natural person. 213



(T) "Licensee" means any individual who has been issued a 214  
mortgage loan originator license under this chapter. 215

(U) "Loan commitment" means a statement transmitted in 216  
writing or electronically by a mortgage lender setting forth the 217  
terms and conditions upon which the mortgage lender is willing 218  
to make a particular residential mortgage loan to a particular 219  
borrower. 220

(V) "Loan processor or underwriter" means an individual 221  
who, with respect to the origination of a residential mortgage 222  
loan, performs ~~administrative or clerical tasks as an employee~~ 223  
~~at the direction of and subject to the supervision of a mortgage~~ 224  
~~lender or mortgage broker. For purposes of this division,~~ 225  
~~"origination of a residential mortgage loan" means all~~ 226  
~~activities related to a residential mortgage loan, from the~~ 227  
~~taking of a loan application through the completion of all~~ 228  
~~required loan closing documents and the funding of the loan any~~ 229  
of the following activities at the direction or subject to the 230  
supervision of a licensed mortgage loan originator or registered 231  
mortgage loan originator: 232

(1) Receiving, collecting, distributing, or analyzing 233  
information common for the processing or underwriting of a 234  
residential mortgage loan; 235

(2) Communicating with a borrower to obtain the 236  
information necessary for the processing or underwriting of a 237  
loan, to the extent the communication does not include offering 238  
or negotiating loan rates or terms or counseling borrowers about 239  
residential mortgage loan rates or terms. 240

(W) "Mortgage" means the consensual interest in real 241  
property located in this state, including improvements to that 242

property, securing a debt evidence by a mortgage, trust 243  
indenture, deed of trust, or other lien on real property. 244

(X) "Mortgage broker" means an entity that obtains, 245  
attempts to obtain, or assists in obtaining a mortgage loan for 246  
a borrower from a mortgage lender in return for consideration or 247  
in anticipation of consideration. For purposes of this division, 248  
"attempting to obtain or assisting in obtaining" a mortgage loan 249  
includes referring a borrower to a mortgage lender, soliciting 250  
or offering to solicit a mortgage loan on behalf of a borrower, 251  
or negotiating or offering to negotiate the terms or conditions 252  
of a mortgage loan with a mortgage lender on behalf of a 253  
borrower. 254

(Y) "Mortgage lender" means an entity that consummates a 255  
residential mortgage loan, advances funds, offers to advance 256  
funds, or commits to advancing funds for a residential mortgage 257  
loan applicant. 258

(Z) (1) "Mortgage loan originator" means an individual who 259  
for compensation or gain, or in the expectation of compensation 260  
or gain, does any of the following: 261

(a) Takes a residential mortgage loan application; 262

(b) Assists or offers to assist a buyer in obtaining or 263  
applying to obtain a residential mortgage loan by, among other 264  
things, advising on loan terms, including rates, fees, and other 265  
costs; 266

(c) Offers or negotiates terms of a residential mortgage 267  
loan; 268

(d) Issues or offers to issue a commitment for a 269  
residential mortgage loan to a buyer. 270

(2) "Mortgage loan originator" does not include any of the 271  
following: 272

(a) An individual who performs purely administrative or 273  
clerical tasks on behalf of a mortgage loan originator; 274

(b) A person licensed under Chapter 4735. of the Revised 275  
Code, or under the similar law of another state, who performs 276  
only real estate brokerage activities permitted by that license, 277  
provided the person is not compensated by a mortgage lender, 278  
mortgage broker, mortgage loan originator, or by any agent 279  
thereof; 280

(c) A person solely involved in extensions of credit 281  
relating to timeshare plans, as that term is defined in 11 282  
U.S.C. 101; 283

(d) An employee of a mortgage lender or mortgage broker 284  
who acts solely as a loan processor or underwriter and who does 285  
not represent to the public, through advertising or other means 286  
of communicating, including the use of business cards, 287  
stationery, brochures, signs, rate lists, or other promotional 288  
items, that the employee can or will perform any of the 289  
activities of a mortgage loan originator; 290

(e) A licensed attorney who negotiates the terms of a 291  
residential mortgage loan on behalf of a client as an ancillary 292  
matter to the attorney's representation of the client, unless 293  
the attorney is compensated by a mortgage lender, a mortgage 294  
broker, or another mortgage loan originator, or by any agent 295  
thereof; 296

(f) Any person engaged in the retail sale of manufactured 297  
homes, mobile homes, or industrialized units if, in connection 298  
with financing those retail sales, the person only assists the 299

borrower by providing or transmitting the loan application and 300  
does not do any of the following: 301

(i) Offer or negotiate the residential mortgage loan rates 302  
or terms; 303

(ii) Provide any counseling with borrowers about 304  
residential mortgage loan rates or terms; 305

(iii) Receive any payment or fee from any company or 306  
individual for assisting the borrower obtain or apply for 307  
financing to purchase the manufactured home, mobile home, or 308  
industrialized unit; 309

(iv) Assist the borrower in completing a residential 310  
mortgage loan application. 311

(g) An individual employed by a nonprofit organization 312  
that is recognized as tax exempt under 26 U.S.C. 501(c)(3) and 313  
whose primary activity is the construction, remodeling, or 314  
rehabilitation of homes for use by low-income families, provided 315  
that the nonprofit organization makes no-profit mortgage loans 316  
or mortgage loans at zero per cent interest to low-income 317  
families and no fees accrue directly to the nonprofit 318  
organization or individual employed by the nonprofit 319  
organization from those mortgage loans and that the United 320  
States department of housing and urban development does not deny 321  
this exemption. 322

(AA) "Mortgage servicer" means ~~an entity~~ a person that, 323  
for itself or on behalf of the holder of a mortgage loan, holds 324  
the servicing rights for more than five mortgage loans, records 325  
mortgage payments on its books for more than five mortgage 326  
loans, or performs other functions to carry out the mortgage 327  
holder's obligations or rights under the mortgage agreement for 328

more than five mortgage loans including, when applicable, the 329  
receipt of funds from the mortgagor to be held in escrow for 330  
payment of real estate taxes and insurance premiums and the 331  
distribution of such funds to the taxing authority and insurance 332  
company. 333

(BB) "Nationwide mortgage licensing system and registry" 334  
means a licensing system developed and maintained by the 335  
conference of state bank supervisors and the American 336  
association of residential mortgage regulators, or their 337  
successor entities, for the licensing and registration of 338  
persons providing non-depository financial services. 339

(CC) "Nontraditional mortgage product" means any mortgage 340  
product other than a thirty-year fixed rate mortgage. 341

(DD) "Person" means an individual, sole proprietorship, 342  
corporation, company, limited liability company, partnership, 343  
limited liability partnership, trust, or association. 344

(EE) "Real estate brokerage activity" means any activity 345  
that involves offering or providing real estate brokerage 346  
services to the public, including all of the following: 347

(1) Acting as a real estate salesperson or real estate 348  
broker for a buyer, seller, lessor, or lessee of real property; 349

(2) Bringing together parties interested in the sale, 350  
purchase, lease, rental, or exchange of real property; 351

(3) Negotiating, on behalf of any party, any portion of a 352  
contract relating to the sale, purchase, lease, rental, or 353  
exchange of real property, other than in connection with 354  
providing financing for any such transaction; 355

(4) Engaging in any activity for which a person engaged in 356

that activity is required to be licensed as a real estate 357  
salesperson or real estate broker under the law of this state; 358

(5) Offering to engage in any activity, or to act in any 359  
capacity, described in division (EE) of this section. 360

(FF) "Registered mortgage loan originator" means an 361  
individual to whom both of the following apply: 362

(1) The individual is a mortgage loan originator and an 363  
employee of a depository institution, a subsidiary that is owned 364  
and controlled by a depository institution and regulated by a 365  
federal banking agency, or an institution regulated by the farm 366  
credit administration. 367

(2) The individual is registered with, and maintains a 368  
unique identifier through, the nationwide mortgage licensing 369  
system and registry. 370

(GG) "Registrant" means any person that has been issued a 371  
certificate of registration under this chapter. 372

(HH) "Residential mortgage loan" means any loan that meets 373  
both of the following requirements: 374

(1) It is primarily for personal, family, or household use 375  
and is secured by a mortgage, deed of trust, or other equivalent 376  
consensual security interest on a dwelling or on residential 377  
real estate ~~located in Ohio~~. 378

(2) It is provided and secured by a first lien holder 379  
secured creditor or by a ~~second~~ subordinate lien holder secured 380  
creditor. 381

(II) "Residential real estate" means any real property 382  
located in this state upon which is constructed a dwelling or 383  
upon which a dwelling is intended to be built within a two-year 384

period, subject to 24 C.F.R. 3500.5(b)(4). For purposes of this 385  
division, a borrower's intent to build a dwelling within a two- 386  
year period is presumed unless the borrower has submitted a 387  
written, signed statement to the contrary. 388

(JJ) "Superintendent of financial institutions" includes 389  
the deputy superintendent for consumer finance as provided in 390  
section 1181.21 of the Revised Code. 391

(KK) "Transaction of business as a mortgage lender, 392  
mortgage servicer, or mortgage broker in this state" means the 393  
provision or offering of mortgage lender, mortgage servicer, or 394  
mortgage broker services on a residential mortgage loan in any 395  
of the following circumstances: 396

(1) For any resident in this state; 397

(2) For any property in this state; 398

(3) By a person who is physically located in this state 399  
but who regularly provides or offers to provide mortgage lender 400  
or mortgage broker services in, or for property located in, 401  
other states. 402

(LL) "Unique identifier" means a number or other 403  
identifier assigned by protocols established by the nationwide 404  
mortgage licensing system and registry. 405

**Sec. 1322.07.** (A) (1) No person, on the person's own behalf 406  
or on behalf of any other person, shall ~~act~~ engage in the 407  
transaction of business as a mortgage lender, mortgage servicer, 408  
or mortgage broker in this state without first having obtained a 409  
certificate of registration from the superintendent of financial 410  
institutions for the principal office and every branch office to 411  
be maintained by the person for the transaction of business as a 412  
mortgage lender, mortgage servicer, or mortgage broker in this 413

state. A—

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(2) A registrant shall maintain an office location for the  
transaction of business as a mortgage lender, mortgage servicer,  
or mortgage broker in this any state of the United States.

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Registrants are not required to maintain a physical location in  
this state.

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(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 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 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.

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(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.

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

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**Sec. 1322.09.** (A) (1) An application for a certificate of  
registration shall be in writing, under oath, and in 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

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dollars for each location of an office to be maintained by the 443  
applicant in accordance with division (A) of section 1322.07 of 444  
the Revised Code and any additional fee required by the 445  
nationwide mortgage licensing system and registry. 446

(2) The application shall include the names and addresses 447  
of the owners, officers, or partners having control of the 448  
applicant, including all of the following: 449

(a) In the case of a sole proprietor, the name and address 450  
of the sole proprietor; 451

(b) In the case of a partnership, the name and address of 452  
each partner; 453

(c) In the case of a corporation, the name and address of 454  
each shareholder owning five per cent or more of the 455  
corporation; 456

(d) In the case of any other entity, the name and address 457  
of any person that owns five per cent or more of any entity that 458  
will transact business under the certificate of registration. 459

(3) In addition to any information required by this 460  
section, an applicant shall furnish to the superintendent any 461  
reasonable information the superintendent may require. 462

(B) Upon the filing of the application and payment of the 463  
nonrefundable application fee and any fee required by the 464  
nationwide mortgage licensing system and registry, the 465  
superintendent shall investigate the applicant and any 466  
individual whose identity is required to be disclosed in the 467  
application. As part of that investigation, the superintendent 468  
shall conduct a civil records check. 469

If, in order to issue a certificate of registration to an 470

applicant, additional investigation by the superintendent 471  
outside this state is necessary, the superintendent may require 472  
the applicant to advance sufficient funds to pay the actual 473  
expenses of the investigation, if it appears that these expenses 474  
will exceed five hundred dollars. The superintendent shall 475  
provide the applicant with an itemized statement of the actual 476  
expenses that the applicant is required to pay. 477

(C) In connection with applying for a certificate of 478  
registration, the applicant shall furnish to the nationwide 479  
mortgage licensing system and registry information concerning 480  
the applicant's identity, including all of the following: 481

(1) The applicant's fingerprints for submission to the 482  
federal bureau of investigation, and any other governmental 483  
agency or entity authorized to receive such information, for 484  
purposes of a state, national, and international criminal 485  
history background check; 486

(2) Personal history and experience in a form prescribed 487  
by the nationwide mortgage licensing system and registry, along 488  
with authorization for the superintendent and the nationwide 489  
mortgage licensing system and registry to obtain both of the 490  
following: 491

(a) An independent credit report from a consumer reporting 492  
agency; 493

(b) Information related to any administrative, civil, or 494  
criminal findings by any governmental jurisdiction. 495

(D) The superintendent shall pay all funds advanced and 496  
application and renewal fees and penalties the superintendent 497  
receives pursuant to this section and section 1322.10 of the 498  
Revised Code to the treasurer of state to the credit of the 499

consumer finance fund created in section 1321.21 of the Revised 500  
Code. 501

(E) If an application for a certificate of registration 502  
does not contain all of the information required under this 503  
section, and if that information is not submitted to the 504  
superintendent or to the nationwide mortgage licensing system 505  
and registry within ninety days after the superintendent or the 506  
nationwide mortgage licensing system and registry requests the 507  
information in writing, including by electronic transmission or 508  
facsimile, the superintendent may consider the application 509  
withdrawn. 510

(F) A certificate of registration and the authority 511  
granted under that certificate is not transferable or assignable 512  
and cannot be franchised by contract or any other means. 513

(G) (1) The superintendent may establish relationships or 514  
enter into contracts with the nationwide mortgage licensing 515  
system and registry, or any entities designated by it, to 516  
collect and maintain records and process transaction fees or 517  
other fees related to mortgage lender, mortgage servicer, or 518  
mortgage broker certificates of registration or the persons 519  
associated with a mortgage lender, mortgage servicer, or 520  
mortgage broker. 521

(2) For purposes of this section and to reduce the points 522  
of contact that the federal bureau of investigation may have to 523  
maintain, the division of financial institutions may use the 524  
nationwide mortgage licensing system and registry as a 525  
channeling agent for requesting information from and 526  
distributing information to the United States department of 527  
justice or other governmental agencies. 528

(3) For purposes of this section and to reduce the points 529  
of contact that the division may have to maintain, the division 530  
may use the nationwide mortgage licensing system and registry as 531  
a channeling agent for requesting information from and 532  
distributing information to any source as determined by the 533  
division. 534

**Sec. 1322.12.** (A) Each registrant or entity holding a 535  
valid letter of exemption under division (B) (1) of section 536  
1322.05 of the Revised Code shall designate an employee or owner 537  
of that registrant's business as the operations manager. The 538  
operations manager shall be responsible for the management, 539  
supervision, and control of a particular ~~location~~ registrant. 540

(B) To be eligible for such a designation, an employee or 541  
owner shall have at least three years of experience in the 542  
residential mortgage and lending field including experience as a 543  
mortgage loan originator ~~or,~~ registered mortgage loan 544  
originator, or other experience related to the business of 545  
residential mortgage lending that the superintendent determines 546  
is sufficient. While acting as the operations manager, the 547  
employee or owner shall be licensed as a mortgage loan 548  
originator under this chapter and shall not be employed by any 549  
other mortgage lender or mortgage broker. This paragraph shall 550  
not apply to the designated operations manager of an entity 551  
registered exclusively as a mortgage servicer. 552

(C) If the person designated as the operations manager 553  
pursuant to this section ceases to be the operations manager, 554  
the registrant shall do all of the following: 555

(1) Within ninety days after the person ceases to be the 556  
operations manager, designate another person as the operations 557  
manager; 558

(2) Within ten days after the designation described in 559  
division (C) (1) of this section, notify the superintendent in 560  
writing of the new designation; 561

(3) Submit any additional information that the 562  
superintendent requires to establish that the newly designated 563  
operations manager meets the requirements set forth in this 564  
section. 565

(D) The registrant shall cease operations if it is without 566  
an operations manager approved by the superintendent for more 567  
than one hundred eighty days unless otherwise authorized in 568  
writing by the superintendent due to exigent circumstances. 569

**Sec. 1322.29.** (A) A registrant or entity holding a valid 570  
letter of exemption under division (B) (1) of section 1322.05 of 571  
the Revised Code shall supervise all business of a mortgage loan 572  
originator conducted at the principal office, any branch office, 573  
or other location used by the individual mortgage loan 574  
originator. 575

(B) If a mortgage loan originator's employment or 576  
association is terminated for any reason, the licensee may 577  
request the transfer of the license to another mortgage lender 578  
or mortgage broker by submitting a transfer application, along 579  
with a fifteen-dollar fee and any fee required by the national 580  
mortgage licensing system and registry, to the superintendent of 581  
financial institutions or may request the superintendent in 582  
writing to hold the license in escrow. Any licensee whose 583  
license is held in escrow shall cease activity as a mortgage 584  
loan originator. A licensee whose license is held in escrow 585  
shall be required to apply for renewal annually and to comply 586  
with the annual continuing education requirement. 587

(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 and 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 618  
of exemption under division (B)(1) of section 1322.05 of the 619  
Revised Code, if the mortgage lender, mortgage broker, or person 620  
or entity receives written confirmation from the superintendent 621  
that the mortgage loan originator is licensed under this 622  
chapter. 623

**Sec. 1349.72.** (A) ~~Before~~ Not less than thirty days prior 624  
to a person collecting filing a foreclosure action to collect on 625  
a debt secured by residential real property ~~collects or attempts~~ 626  
~~to collect any part of the debt~~, the person shall first send a 627  
written notice as described in division (B) of this section via 628  
United States mail to the residential address of the debtor, if 629  
both of the following apply: 630

(1) The debt is ~~a second secured by a mortgage or junior~~ 631  
lien on the debtor's residential real property that is not in 632  
the first mortgage position. 633

(2) The debt has either been accelerated or is in default 634  
in accordance with the terms set forth in the promissory note. 635

(B) The written notice may be included on, or accompany, 636  
any other communication, and shall be printed in at least 637  
twelve-point type and ~~state include~~ the following: 638

(1) The name and contact information of the person 639  
collecting the debt; 640

(2) ~~The~~ A statement of the amount of the debt; 641

(3) A statement that the debtor has a right to engage an 642  
attorney; 643

(4) A statement that the debtor may qualify for debt 644  
relief under Chapter 7 or 13 of the United States Bankruptcy 645

Code, 11 U.S.C. Chapter 7 or 13, as amended; 646

(5) A statement that a debtor that qualifies under Chapter 647  
13 of the United States Bankruptcy Code may be able to protect 648  
their residential real property from foreclosure. 649

(C) Upon written request of the debtor, the owner of the 650  
debt shall provide a copy of the note and the loan history to 651  
the debtor. 652

(D) (1) As used in this division, 653

(a) "Bona fide error" means an unintentional 654  
clerical, calculation, computer malfunction or programming, or 655  
printing error. 656

(b) "Restitution" means either of the following: 657

(i) A waiver of all fees, costs, or expenses proximately 658  
associated with the failure to provide the notice to the debtor; 659  
or 660

(ii) Actual damages. 661

(2) Any owner of debt subject to divisions (A), (B), and 662  
(C) of this section shall not be held civilly liable in any 663  
action, if all of the following are met: 664

(a) The owner of the debt shows by a preponderance of 665  
evidence that the compliance failure was not intentional and 666  
resulted from a bona fide error notwithstanding the maintenance 667  
of procedures reasonably adapted to avoid any such error. 668

(b) Within sixty days after discovering the error, and 669  
prior to the initiation of any action, the owner of the debt 670  
notifies the debtor of the error and the manner in which the 671  
owner of the debt intends to make full restitution to the 672



debtor. 673

(c) The owner of the debt promptly makes reasonable 674  
restitution to the debtor. 675

(3) If, in the event of a compliance failure, the owner of 676  
the debt does not meet the conditions set forth in division (D) 677  
(2) of this section, a debtor injured by the error has a cause 678  
of action to recover damages. Such an action shall not, however, 679  
be maintained as a class action. 680

**Sec. 2913.11.** (A) As used in this section: 681

(1) "Check" includes any form of debit from a demand 682  
deposit account, including, but not limited to any of the 683  
following: 684

(a) A check, bill of exchange, draft, order of withdrawal, 685  
or similar negotiable or non-negotiable instrument; 686

(b) An electronic check, electronic transaction, debit 687  
card transaction, check card transaction, substitute check, web 688  
check, or any form of automated clearing house transaction. 689

(2) "Issue a check" means causing any form of debit from a 690  
demand deposit account. 691

(B) No person, with purpose to defraud, shall issue or 692  
transfer or cause to be issued or transferred a check or other 693  
negotiable instrument, knowing that it will be dishonored or 694  
knowing that a person has ordered or will order stop payment on 695  
the check or other negotiable instrument. 696

(C) For purposes of this section, a person who issues or 697  
transfers a check or other negotiable instrument is presumed to 698  
know that it will be dishonored if either of the following 699  
occurs: 700

(1) The drawer had no account with the drawee at the time 701  
of issue or the stated date, whichever is later; 702

(2) The check or other negotiable instrument was properly 703  
refused payment for insufficient funds upon presentment within 704  
thirty days after issue or the stated date, whichever is later, 705  
and the liability of the drawer, indorser, or any party who may 706  
be liable thereon is not discharged by payment or satisfaction 707  
within ten days after receiving notice of dishonor. 708

~~(D) For purposes of this section, a person who issues or 709  
transfers a check, bill of exchange, or other draft is presumed 710  
to have the purpose to defraud if the drawer fails to comply 711  
with section 1349.16 of the Revised Code by doing any of the 712  
following when opening a checking account intended for personal, 713  
family, or household purposes at a financial institution: 714~~

~~(1) Falsely stating that the drawer has not been issued a 715  
valid driver's or commercial driver's license or identification 716  
card issued under section 4507.50 of the Revised Code; 717~~

~~(2) Furnishing such license or card, or another 718  
identification document that contains false information; 719~~

~~(3) Making a false statement with respect to the drawer's 720  
current address or any additional relevant information 721  
reasonably required by the financial institution. 722~~

~~(E)~~ In determining the value of the payment for purposes 723  
of division ~~(F)~~ (E) of this section, the court may aggregate all 724  
checks and other negotiable instruments that the offender issued 725  
or transferred or caused to be issued or transferred in 726  
violation of division (A) of this section within a period of one 727  
hundred eighty consecutive days. 728

~~(F)~~ (E) Whoever violates this section is guilty of passing 729

bad checks. Except as otherwise provided in this division, 730  
passing bad checks is a misdemeanor of the first degree. If the 731  
check or checks or other negotiable instrument or instruments 732  
are issued or transferred to a single vendor or single other 733  
person for the payment of one thousand dollars or more but less 734  
than seven thousand five hundred dollars or if the check or 735  
checks or other negotiable instrument or instruments are issued 736  
or transferred to multiple vendors or persons for the payment of 737  
one thousand five hundred dollars or more but less than seven 738  
thousand five hundred dollars, passing bad checks is a felony of 739  
the fifth degree. If the check or checks or other negotiable 740  
instrument or instruments are for the payment of seven thousand 741  
five hundred dollars or more but less than one hundred fifty 742  
thousand dollars, passing bad checks is a felony of the fourth 743  
degree. If the check or checks or other negotiable instrument or 744  
instruments are for the payment of one hundred fifty thousand 745  
dollars or more, passing bad checks is a felony of the third 746  
degree. 747

**Section 2.** That existing sections 1321.52, 1322.01, 748  
1322.07, 1322.09, 1322.12, 1322.29, 1349.72, and 2913.11 of the 749  
Revised Code are hereby repealed. 750

**Section 3.** That section 1349.16 of the Revised Code is 751  
hereby repealed. 752