

## As Passed by the House

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Am. Sub. H. B. No. 3

Representatives Foley, Driehaus

Cosponsors: Representatives Heard, Skindell, Stewart, Yuko, Hagan, Harris, Williams, B., Williams, S., Yates, Luckie, Patten, Slesnick, Ujvagi, Letson, Harwood, Boyd, Weddington, Winburn, Pryor, Murray, Mallory, Domenick, DeBose, Brown, Chandler, DeGeeter, Dyer, Gerberry, Koziura, Lundy, Pillich

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## A B I L L

To amend sections 109.572, 1181.05, 1181.21, 1321.52,	1
1322.05, and 5713.03 and to enact sections	2
1323.01, 1323.02, 1323.04 to 1323.11, 1323.20 to	3
1323.36, 1323.361, 1323.37, 1323.99, 2303.33,	4
2308.01, 2308.02, 2308.021, and 2308.03 of the	5
Revised Code to declare a six-month moratorium on	6
mortgage foreclosures, to require registration of	7
residential mortgage servicers, to regulate	8
residential mortgage servicers, to establish a	9
database to track foreclosures, to adopt	10
procedures and requirements related to residential	11
foreclosure actions, to adopt civil and criminal	12
penalties for violations of the bill's provisions,	13
and to terminate the moratorium provisions of this	14
act six months after its effective date by	15
repealing section 2308.03 of the Revised Code on	16
that date.	17

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

**Section 1.** That sections 109.572, 1181.05, 1181.21, 1321.52, 18  
1322.05, and 5713.03 be amended and sections 1323.01, 1323.02, 19  
1323.04, 1323.05, 1323.06, 1323.07, 1323.08, 1323.09, 1323.10, 20  
1323.11, 1323.20, 1323.21, 1323.22, 1323.23, 1323.24, 1323.25, 21  
1323.26, 1323.27, 1323.28, 1323.29, 1323.30, 1323.31, 1323.32, 22  
1323.33, 1323.34, 1323.35, 1323.36, 1323.361, 1323.37, 1323.99, 23  
2303.33, 2308.01, 2308.02, 2308.021, and 2308.03 of the Revised 24  
Code be enacted to read as follows: 25

**Sec. 109.572.** (A)(1) Upon receipt of a request pursuant to 26  
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 27  
a completed form prescribed pursuant to division (C)(1) of this 28  
section, and a set of fingerprint impressions obtained in the 29  
manner described in division (C)(2) of this section, the 30  
superintendent of the bureau of criminal identification and 31  
investigation shall conduct a criminal records check in the manner 32  
described in division (B) of this section to determine whether any 33  
information exists that indicates that the person who is the 34  
subject of the request previously has been convicted of or pleaded 35  
guilty to any of the following: 36

(a) A violation of section 2903.01, 2903.02, 2903.03, 37  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 38  
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 39  
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 40  
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 41  
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 42  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 43  
2925.06, or 3716.11 of the Revised Code, felonious sexual 44  
penetration in violation of former section 2907.12 of the Revised 45  
Code, a violation of section 2905.04 of the Revised Code as it 46  
existed prior to July 1, 1996, a violation of section 2919.23 of 47  
the Revised Code that would have been a violation of section 48

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;	49 50 51 52
(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.	53 54 55 56
(2) On receipt of a request pursuant to section 5123.081 of the Revised Code with respect to an applicant for employment in any position with the department of mental retardation and developmental disabilities, pursuant to section 5126.28 of the Revised Code with respect to an applicant for employment in any position with a county board of mental retardation and developmental disabilities, or pursuant to section 5126.281 of the Revised Code with respect to an applicant for employment in a direct services position with an entity contracting with a county board for employment, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pledged guilty to any of the following:	57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75
(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321,	76 77 78 79 80

2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, or 3716.11 of the Revised Code;	81 82 83
(b) An existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(2)(a) of this section.	84 85 86 87
(3) On receipt of a request pursuant to section 173.27, 173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position for which a criminal records check is required by those sections. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pledged guilty to any of the following:	88 89 90 91 92 93 94 95 96 97 98 99 100 101
(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;	102 103 104 105 106 107 108 109 110
(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of	111 112

the offenses listed in division (A)(3)(a) of this section.	113
(4) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with a home health agency as a person responsible for the care, custody, or control of a child, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:	114
(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;	128
(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(4)(a) of this section.	138
(5) On receipt of a request pursuant to section 5111.032, 5111.033, or 5111.034 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	141
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division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 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, 2913.48, 2913.49, 2913.51, 2917.11, 2919.12, 2919.22, 2919.24, 2919.25, 2921.13, 2921.36, 2923.02, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

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

(6) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with

a home health agency in a position that involves providing direct care to an older adult, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:	177 178 179 180 181 182 183 184 185 186 187
(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;	188 189 190 191 192 193 194 195 196
(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(6)(a) of this section.	197 198 199
(7) When conducting a criminal records check upon a request pursuant to section 3319.39 of the Revised Code for an applicant who is a teacher, in addition to the determination made under division (A)(1) of this section, the superintendent shall determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any offense specified in section 3319.31 of the Revised Code.	200 201 202 203 204 205 206 207
(8) On receipt of a request pursuant to section 2151.86 of	208

the Revised Code, a completed form prescribed pursuant to division 209  
(C)(1) of this section, and a set of fingerprint impressions 210  
obtained in the manner described in division (C)(2) of this 211  
section, the superintendent of the bureau of criminal 212  
identification and investigation shall conduct a criminal records 213  
check in the manner described in division (B) of this section to 214  
determine whether any information exists that indicates that the 215  
person who is the subject of the request previously has been 216  
convicted of or pleaded guilty to any of the following: 217

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 218  
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 219  
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 220  
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 221  
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 222  
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 223  
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 224  
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 225  
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 226  
of the Revised Code, a violation of section 2905.04 of the Revised 227  
Code as it existed prior to July 1, 1996, a violation of section 228  
2919.23 of the Revised Code that would have been a violation of 229  
section 2905.04 of the Revised Code as it existed prior to July 1, 230  
1996, had the violation been committed prior to that date, a 231  
violation of section 2925.11 of the Revised Code that is not a 232  
minor drug possession offense, two or more OVI or OVUAC violations 233  
committed within the three years immediately preceding the 234  
submission of the application or petition that is the basis of the 235  
request, or felonious sexual penetration in violation of former 236  
section 2907.12 of the Revised Code; 237

(b) A violation of an existing or former law of this state, 238  
any other state, or the United States that is substantially 239  
equivalent to any of the offenses listed in division (A)(8)(a) of 240

this section.	241
(9) Upon receipt of a request pursuant to section 5104.012 or 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:	242 243 244 245 246 247 248 249 250 251
(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, a violation of section 2923.02 or 2923.03 of the Revised Code that relates to a crime specified in this	252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272

division, or a second violation of section 4511.19 of the Revised	273
Code within five years of the date of application for licensure or	274
certification.	275
(b) A violation of an existing or former law of this state,	276
any other state, or the United States that is substantially	277
equivalent to any of the offenses or violations described in	278
division (A)(9)(a) of this section.	279
(10) Upon receipt of a request pursuant to section 5153.111	280
of the Revised Code, a completed form prescribed pursuant to	281
division (C)(1) of this section, and a set of fingerprint	282
impressions obtained in the manner described in division (C)(2) of	283
this section, the superintendent of the bureau of criminal	284
identification and investigation shall conduct a criminal records	285
check in the manner described in division (B) of this section to	286
determine whether any information exists that indicates that the	287
person who is the subject of the request previously has been	288
convicted of or pleaded guilty to any of the following:	289
(a) A violation of section 2903.01, 2903.02, 2903.03,	290
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,	291
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05,	292
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23,	293
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02,	294
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22,	295
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03,	296
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code,	297
felonious sexual penetration in violation of former section	298
2907.12 of the Revised Code, a violation of section 2905.04 of the	299
Revised Code as it existed prior to July 1, 1996, a violation of	300
section 2919.23 of the Revised Code that would have been a	301
violation of section 2905.04 of the Revised Code as it existed	302
prior to July 1, 1996, had the violation been committed prior to	303
that date, or a violation of section 2925.11 of the Revised Code	304

that is not a minor drug possession offense;	305
(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)(10)(a) of this section.	306 307 308 309
(11) On receipt of a request for a criminal records check from an individual pursuant to section 4749.03 or 4749.06 of the Revised Code, accompanied by a completed copy of the form prescribed in division (C)(1) of this section and a set of fingerprint impressions obtained in a manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists indicating that the person who is the subject of the request has been convicted of or pleaded guilty to a felony in this state or in any other state. If the individual indicates that a firearm will be carried in the course of business, the superintendent shall require information from the federal bureau of investigation as described in division (B)(2) of this section. The superintendent shall report the findings of the criminal records check and any information the federal bureau of investigation provides to the director of public safety.	310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327
(12) On receipt of a request pursuant to section 1321.37, 1322.03, 1322.031, <u>1323.23</u> , 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	328 329 330 331 332 333 334 335 336

department. The superintendent shall conduct the criminal records 337  
check in the manner described in division (B) of this section to 338  
determine whether any information exists that indicates that the 339  
person who is the subject of the request previously has been 340  
convicted of or pleaded guilty to any of the following: a 341  
violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 342  
2925.03 of the Revised Code; any other criminal offense involving 343  
theft, receiving stolen property, embezzlement, forgery, fraud, 344  
passing bad checks, money laundering, or drug trafficking, or any 345  
criminal offense involving money or securities, as set forth in 346  
Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 347  
the Revised Code; or any existing or former law of this state, any 348  
other state, or the United States that is substantially equivalent 349  
to those offenses. 350  
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(13) On receipt of a request for a criminal records check 352  
from the treasurer of state under section 113.041 of the Revised 353  
Code or from an individual under section 4701.08, 4715.101, 354  
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 355  
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 356  
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 357  
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 358  
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 359  
a completed form prescribed under division (C)(1) of this section 360  
and a set of fingerprint impressions obtained in the manner 361  
described in division (C)(2) of this section, the superintendent 362  
of the bureau of criminal identification and investigation shall 363  
conduct a criminal records check in the manner described in 364  
division (B) of this section to determine whether any information 365  
exists that indicates that the person who is the subject of the 366  
request has been convicted of or pleaded guilty to any criminal 367  
offense in this state or any other state. The superintendent shall 368  
send the results of a check requested under section 113.041 of the 369

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.	370 371 372 373
(14) On receipt of a request pursuant to section 1121.23, 1155.03, 1163.05, 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.	374 375 376 377 378 379 380 381 382 383 384 385
(15) Not later than thirty days after the date the superintendent receives a request of a type described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (14) of this section, the completed form, and the fingerprint impressions, the superintendent shall send the person, board, or entity that made the request any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exists with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (14) of this section, as appropriate. The superintendent shall send the person, board, or entity that made the request a copy of the list of offenses specified in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (14) of this section, as	386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401

appropriate. If the request was made under section 3701.881 of the Revised Code with regard to an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult, the superintendent shall provide a list of the offenses specified in divisions (A)(4) and (6) of this section. 402  
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Not later than thirty days after the superintendent receives a request for a criminal records check pursuant to section 113.041 of the Revised Code, the completed form, and the fingerprint impressions, the superintendent shall send the treasurer of state any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exist with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state. 408  
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(B) The superintendent shall conduct any criminal records check requested under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1323.23, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 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, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as follows: 418  
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(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the request, including, if the 430  
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criminal records check was requested under section 113.041,	434
121.08, 173.27, 173.394, <u>1121.23, 1155.03, 1163.05, 1315.141,</u>	435
<u>1321.37, 1322.03, 1322.031, 1323.23, 1733.47, 1761.26,</u> 2151.86,	436
3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151,	437
4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.032, 5111.033,	438
5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised	439
Code, any relevant information contained in records that have been	440
sealed under section 2953.32 of the Revised Code;	441
	442
 (2) If the request received by the superintendent asks for	443
information from the federal bureau of investigation, the	444
superintendent shall request from the federal bureau of	445
investigation any information it has with respect to the person	446
who is the subject of the request, including fingerprint-based	447
checks of national crime information databases as described in 42	448
U.S.C. 671 if the request is made pursuant to section 2151.86,	449
5104.012, or 5104.013 of the Revised Code or if any other Revised	450
Code section requires fingerprint-based checks of that nature, and	451
shall review or cause to be reviewed any information the	452
superintendent receives from that bureau.	453
 (3) The superintendent or the superintendent's designee may	454
request criminal history records from other states or the federal	455
government pursuant to the national crime prevention and privacy	456
compact set forth in section 109.571 of the Revised Code.	457
 (C)(1) The superintendent shall prescribe a form to obtain	458
the information necessary to conduct a criminal records check from	459
any person for whom a criminal records check is requested under	460
section 113.041 of the Revised Code or required by section 121.08,	461
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03,	462
<u>1322.031, 1323.23, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541,</u>	463
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101,	464
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14,	465

4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 466  
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 467  
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 468  
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 469  
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 470  
5126.281, or 5153.111 of the Revised Code. The form that the 471  
superintendent prescribes pursuant to this division may be in a 472  
tangible format, in an electronic format, or in both tangible and 473  
electronic formats. 474

(2) The superintendent shall prescribe standard impression 475  
sheets to obtain the fingerprint impressions of any person for 476  
whom a criminal records check is requested under section 113.041 477  
of the Revised Code or required by section 121.08, 173.27, 478  
173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 479  
1323.23, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 480  
3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 481  
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 482  
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 483  
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 484  
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 485  
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 486  
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 487  
5126.281, or 5153.111 of the Revised Code. Any person for whom a 488  
records check is requested under or required by any of those 489  
sections shall obtain the fingerprint impressions at a county 490  
sheriff's office, municipal police department, or any other entity 491  
with the ability to make fingerprint impressions on the standard 492  
impression sheets prescribed by the superintendent. The office, 493  
department, or entity may charge the person a reasonable fee for 494  
making the impressions. The standard impression sheets the 495  
superintendent prescribes pursuant to this division may be in a 496  
tangible format, in an electronic format, or in both tangible and 497  
electronic formats. 498

(3) Subject to division (D) of this section, the	499
superintendent shall prescribe and charge a reasonable fee for	500
providing a criminal records check requested under section	501
113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05,	502
1315.141, 1322.03, 1322.031, <u>1323.23</u> , 1733.47, 1761.26, 2151.86,	503
3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151,	504
4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071,	505
4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222,	506
4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061,	507
4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032,	508
4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012,	509
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28,	510
5126.281, or 5153.111 of the Revised Code. The person making a	511
criminal records request under any of those sections shall pay the	512
fee prescribed pursuant to this division. A person making a	513
request under section 3701.881 of the Revised Code for a criminal	514
records check for an applicant who may be both responsible for the	515
care, custody, or control of a child and involved in providing	516
direct care to an older adult shall pay one fee for the request.	517
In the case of a request under section 1121.23, 1155.03, 1163.05,	518
1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the	519
fee shall be paid in the manner specified in that section.	520
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(4) The superintendent of the bureau of criminal	522
identification and investigation may prescribe methods of	523
forwarding fingerprint impressions and information necessary to	524
conduct a criminal records check, which methods shall include, but	525
not be limited to, an electronic method.	526
(D) A determination whether any information exists that	527
indicates that a person previously has been convicted of or	528
pledged guilty to any offense listed or described in division	529
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or	530

(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), (A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), or (A)(14) of this section, or that indicates that a person previously has been convicted of or pleaded guilty to any criminal offense in this state or any other state regarding a criminal records check of a type described in division (A)(13) of this section, and that is made by the superintendent with respect to information considered in a criminal records check in accordance with this section is valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent makes the determination. During the period in which the determination in regard to a person is valid, if another request under this section is made for a criminal records check for that person, the superintendent shall provide the information that is the basis for the superintendent's initial determination at a lower fee than the fee prescribed for the initial criminal records check.	531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547
(E) As used in this section:	548
(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.	549 550 551 552
(2) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	553 554
(3) "Older adult" means a person age sixty or older.	555
(4) "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.	556 557 558 559 560

<b>Sec. 1181.05.</b> (A) As used in this section, "consumer finance company" means any person required to be licensed or registered under Chapter 1321., 1322., <u>1323.</u> 4712., 4727., or 4728. or sections 1315.21 to 1315.30 of the Revised Code.	561
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(B) Neither the superintendent of financial institutions nor any other employee of the division of financial institutions shall do any of the following: be interested, directly or indirectly, in any bank, savings and loan association, savings bank, credit union, or consumer finance company, that is under the supervision of the superintendent of financial institutions; directly or indirectly borrow money from any such financial institution or company; serve as a director or officer of or be employed by any such financial institution or company; or own an equity interest in any such financial institution or company. For purposes of this section, an equity interest does not include the ownership of an account in a mutual savings and loan association or in a savings bank that does not have permanent stock or the ownership of a share account in a credit union.	565
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(C) Subject to division (G) of this section, an employee of the division of financial institutions may retain any extension of credit that otherwise would be prohibited by division (B) of this section if both of the following apply:	579
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(1) The employee obtained the extension of credit prior to October 29, 1995, or the commencement of the employee's employment with the division, or as a result of a change in the employee's marital status, the consummation of a merger, acquisition, transfer of assets, or other change in corporate ownership beyond the employee's control, or the sale of the extension of credit in the secondary market or other business transaction beyond the employee's control.	583
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(2) The employee liquidates the extension of credit under its	591

original terms and without renegotiation.	592
If the employee chooses to retain the extension of credit, the employee shall immediately provide written notice of the retention to the employee's supervisor. Thereafter, the employee shall be disqualified from participating in any decision, examination, audit, or other action that may affect that particular creditor.	593 594 595 596 597 598
(D) Subject to division (G) of this section, an employee of the division of financial institutions may retain any ownership of or beneficial interest in the securities of a financial institution or consumer finance company that is under the supervision of the division of financial institutions, or of a holding company or subsidiary of such a financial institution or company, which ownership or beneficial interest otherwise would be prohibited by division (B) of this section, if the ownership or beneficial interest is acquired by the employee through inheritance or gift, prior to October 29, 1995, or the commencement of the employee's employment with the division, or as a result of a change in the employee's marital status or the consummation of a merger, acquisition, transfer of assets, or other change in corporate ownership beyond the employee's control.	599 600 601 602 603 604 605 606 607 608 609 610 611 612
If the employee chooses to retain the ownership or beneficial interest, the employee shall immediately provide written notice of the retention to the employee's supervisor. Thereafter, the employee shall be disqualified from participating in any decision, examination, audit, or other action that may affect the issuer of the securities. However, if the ownership of or beneficial interest in the securities and the subsequent disqualification required by this division impair the employee's ability to perform the employee's duties, the employee may be ordered to divest self of the ownership of or beneficial interest in the securities.	613 614 615 616 617 618 619 620 621 622
(E) Notwithstanding division (B) of this section, an employee	623

of the division of financial institutions may have an indirect	624
interest in the securities of a financial institution or consumer	625
finance company that is under the supervision of the division of	626
financial institutions, which interest arises through ownership of	627
or beneficial interest in the securities of a publicly held mutual	628
fund or investment trust, if the employee owns or has a beneficial	629
interest in less than five per cent of the securities of the	630
mutual fund or investment trust, and the mutual fund or investment	631
trust is not advised or sponsored by a financial institution or	632
consumer finance company that is under the supervision of the	633
division of financial institutions. If the mutual fund or	634
investment trust is subsequently advised or sponsored by a	635
financial institution or consumer finance company that is under	636
the supervision of the division of financial institutions, the	637
employee shall immediately provide written notice of the ownership	638
of or beneficial interest in the securities to the employee's	639
supervisor. Thereafter, the employee shall be disqualified from	640
participating in any decision, examination, audit, or other action	641
that may affect the financial institution or consumer finance	642
company. However, if the ownership of or beneficial interest in	643
the securities and the subsequent disqualification required by	644
this division impair the employee's ability to perform the	645
employee's duties, the employee may be ordered to divest self of	646
the ownership of or beneficial interest in the securities.	647
(F)(1) For purposes of this section, the interests of an	648
employee's spouse or dependent child arising through the ownership	649
or control of securities shall be considered the interests of the	650
employee, unless the interests are solely the financial interest	651
and responsibility of the spouse or dependent child, the interests	652
are not in any way derived from the income, assets, or activity of	653
the employee, and any financial or economic benefit from the	654
interests is for the personal use of the spouse or dependent	655
child.	656

(2) If an employee's spouse or dependent child obtains interests arising through the ownership or control of securities and, pursuant to division (F)(1) of this section, the interests are not considered the interests of the employee, the employee shall immediately provide written notice of the interests to the employee's supervisor. Thereafter, the employee shall be disqualified from participating in any decision, examination, audit, or other action that may affect the issuer of the securities.	657 658 659 660 661 662 663 664 665
(G) For purposes of divisions (C) and (D) of this section, both of the following apply:	666 667
(1) With respect to any employee of the former division of consumer finance who, on the first day of the first pay period commencing after the effective date of this section, becomes an employee of the division of financial institutions, the employee's employment with the division of financial institutions is deemed to commence on the first day of the first pay period commencing after the effective date of this section.	668 669 670 671 672 673 674
(2) With respect to any employee who, on October 29, 1995, became an employee of the division of financial institutions, the employee may, notwithstanding divisions (C) and (D) of this section, retain any extension of credit by a consumer finance company that was obtained at any time prior to the first day of the first pay period commencing after the effective date of this section, or retain any ownership of or beneficial interest in the securities of a consumer finance company, or of a holding company or subsidiary of such a company, that was acquired at any time prior to the first day of the first pay period commencing after the effective date of this section. If the employee chooses to retain the extension of credit or the ownership or beneficial interest, the employee shall comply with divisions (C) and (D) of this section.	675 676 677 678 679 680 681 682 683 684 685 686 687 688

<b>Sec. 1181.21.</b> (A) As used in this section, "consumer finance company" has the same meaning as in section 1181.05 of the Revised Code.	689 690 691
(B) The superintendent of financial institutions shall see that the laws relating to consumer finance companies are executed and enforced.	692 693 694
(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, <u>1323.30</u> , 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, <u>1323.29</u> , 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.	695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712
<b>Sec. 1321.52.</b> (A)(1) No person, on that person's own behalf or on behalf of any other person, <del>shall do either of the following</del> without having first obtained a certificate of registration from the division of financial institutions+	713 714 715 716
(a) <del>Advertise, shall advertise, solicit, or hold out that the person is engaged in the business of making loans secured by a</del>	717 718

mortgage on a borrower's real estate which is other than a first lien on the real estate+	719 720
<del>(b) Engage in the business of lending or collecting the person's own or another person's money, credit, or choses in action for such loans.</del>	721 722 723
(2) Each person issued a certificate <u>of registration</u> is subject to all the rules prescribed under sections 1321.51 to 1321.60 of the Revised Code.	724 725 726
(B) <u>All loans (1) Except as otherwise provided in division</u> <u>(B)(2) of this section, any loan made to persons a person</u> who at the time <u>are residents of the loan is a resident</u> of this state <u>are</u> <u>is</u> 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.	727 728 729 730 731 732
<u>(2) If a loan is primarily secured by a lien on real property</u> <u>in another state and that loan is arranged by a mortgage loan</u> <u>originator licensed by another state, the borrower may designate</u> <u>the transaction be governed by the law where the real property is</u> <u>located if the other state has consumer protection laws covering</u> <u>the borrower that are applicable to the transaction.</u>	733 734 735 736 737 738
(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, loans secured by other than 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 of the Revised Code.	739 740 741 742 743 744
(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.	745 746 747 748
(2) If a registrant applies to the division for a renewal of	749

the registrant's certificate after the date required by division 750  
(A)(4) of section 1321.53 of the Revised Code, but prior to the 751  
first day of August of that year, and the division approves the 752  
application, division (D)(1) of this section does not apply with 753  
respect to any loan made by the registrant while the registrant's 754  
certificate was expired. 755

**Sec. 1322.05.** (A) No registrant shall conduct business in 756  
this state, unless the registrant maintains a net worth of at 757  
least fifty thousand dollars and has obtained and maintains in 758  
effect at all times a corporate surety bond issued by a bonding 759  
company or insurance company authorized to do business in this 760  
state. The bond shall be in favor of the superintendent of 761  
financial institutions and in the penal sum of at least fifty one 762  
hundred thousand dollars and an additional penal sum of ten 763  
thousand dollars for each location, in excess of one, at which the 764  
registrant conducts business. The term of the bond shall coincide 765  
with the term of registration. A copy of the bond shall be filed 766  
with the superintendent. The bond shall be for the exclusive 767  
benefit of any buyer injured by a violation by an employee, 768  
licensee, or registrant of any provision of sections 1322.01 to 769  
1322.12 of the Revised Code. The aggregate liability of the 770  
corporate surety for any and all breaches of the conditions of the 771  
bond shall not exceed the penal sum of the bond. 772

(B)(1) The registrant shall give notice to the superintendent 773  
by certified mail of any action that is brought by a buyer against 774  
the registrant or loan officer of the registrant alleging injury 775  
by a violation of any provision of sections 1322.01 to 1322.12 of 776  
the Revised Code, and of any judgment that is entered against the 777  
registrant or loan officer of the registrant by a buyer injured by 778  
a violation of any provision of sections 1322.01 to 1322.12 of the 779  
Revised Code. The notice shall provide details sufficient to 780  
identify the action or judgment, and shall be filed with the 781

superintendent within ten days after the commencement of the action or notice to the registrant of entry of a judgment.	782 783
(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.	784 785 786 787
(C) Whenever the penal sum of the corporate surety bond is reduced by one or more recoveries or payments, the registrant 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.	788 789 790 791 792 793 794
(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 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, by the insolvency or bankruptcy of the registrant, or by the insolvency of the registrant'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.	795 796 797 798 799 800 801 802 803 804 805
(E) The corporate surety bond shall not be canceled by the registrant 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.	806 807 808 809 810
(F) No registrant shall fail to comply with this section. Any registrant that fails to comply with this section shall cease all	811 812

mortgage broker activity in this state until the registrant 813  
complies with this section. 814

**Sec. 1323.01.** (A) As used in this chapter: 815

(1) "Mortgage servicer" or "servicer" means a person who 816  
engages directly or indirectly, whether for compensation, gain for 817  
another, or on the person's own behalf, in the business of 818  
receiving scheduled periodic payments from a borrower pursuant to 819  
the terms of a residential mortgage loan, including amounts 820  
received for deposit in an escrow account, and applying those 821  
payments received toward principal, interest, and other 822  
obligations of the borrower including amounts to be paid from an 823  
escrow account. 824

"Mortgage servicer" includes a person who makes or holds a 825  
loan if that person also services the loan. 826

"Mortgage servicer" does not include any of the following: 827

(a) The federal deposit insurance corporation or the 828  
resolution trust corporation, in connection with assets acquired, 829  
assigned, sold, or transferred pursuant to the "Federal Deposit 830  
Insurance Corporation Act," 64 Stat. 873 (1950), 12 U.S.C. 831  
1823(c), or as receiver or conservator of an insured depository 832  
institution; 833

(b) The government national mortgage association, the federal 834  
national mortgage association, the federal home loan mortgage 835  
corporation, the resolution trust corporation, or the federal 836  
deposit insurance corporation, in any case in which the 837  
assignment, sale, or transfer of the servicing of the mortgage 838  
loan is preceded by: 839

(i) Termination of the contract for servicing the loan for 840  
cause; 841

(ii) Commencement of proceedings for bankruptcy of the 842

<u>servicer;</u>	843
(iii) <u>Commencement of proceedings by the federal deposit insurance corporation or the resolution trust corporation for conservatorship or receivership of the servicer or an entity by which the servicer is owned or controlled.</u>	844 845 846 847
(c) <u>The national credit union administration, in connection with assets acquired, assigned, sold, or transferred pursuant to federal law, or as a receiver or conservator of an insured credit union;</u>	848 849 850 851
(d) <u>Any political subdivision or any public agency of the United States or any state.</u>	852 853
(2) "Mortgage lender" means a person engaged in the business of making residential mortgage loans for compensation or gain.	854 855
(3) "Residential mortgage" and "residential mortgage loan" mean an obligation to pay a sum of money evidenced by a note and secured by a lien upon real property located within this state containing four or fewer residential units and includes such an obligation on a residential condominium or cooperative unit.	856 857 858 859 860
(4) "Employee" means an individual for whom a person pays a wage or salary, pays social security and unemployment taxes, provides workers' compensation coverage, and withholds local, state, and federal income taxes. "Employee" includes any individual who acts as an operations manager of a registered mortgage servicer, but for whom the servicer is prevented by law from making income tax withholdings.	861 862 863 864 865 866 867
(5) "Operations manager" means the employee or owner responsible for the everyday operations, compliance requirements, and management of a registrant or applicant.	868 869 870
(6) "Subprime loan" or "subprime mortgage" means a residential mortgage loan originated between January 1, 2001, and	871 872

<u>January 1, 2009, in which the difference between the annual percentage rate for the loan and the federal home loan mortgage corporation primary mortgage market survey rate for a comparable transaction, as of the date the interest rate is set, is greater than one and one-half percentage points if the loan is a first mortgage loan or three and one-half percentage points if the loan is a mortgage loan in a subordinate position.</u>	873
<u>(7) "Unoccupied property" means a property intended for residential occupancy that is not occupied by the owner of the property or the owner's tenant.</u>	880
<u>(8) "Superintendent of financial institutions" or "superintendent" includes the deputy superintendent for consumer finance as provided in section 1181.21 of the Revised Code.</u>	883
<u>(9) "Short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction.</u>	886
<u>(10) "Depository institution" means an 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, or savings and loan association. "Depository institution" does not mean the holding company of such an institution.</u>	890
<u>(11) "Credit union" means an entity chartered under Chapter 1733. of the Revised Code or under similar laws of another state or the United States. "Credit union" includes a credit union service organization consisting of multiple credit unions.</u>	896
<u>(B) Sections 1323.01 to 1323.11 of the Revised Code shall be known as the "special program to reduce foreclosures act."</u>	900
<u>(C)(1) The director of commerce may act through staff and those under the director's control, including the deputy</u>	902
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<u>superintendent for consumer finance as provided in section 1181.21 of the Revised Code.</u>	904
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<u>(2) The director may adopt rules pursuant to Chapter 119. Of the Revised Code for the administration and enforcement of sections 1323.02, 1323.05, and 1323.06 of the Revised Code.</u>	906
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<u><b>Sec. 1323.02.</b> (A) At least sixty days prior to filing a complaint to initiate a foreclosure action that involves a residential mortgage loan on property occupied by an owner or a tenant of that owner, a mortgage servicer shall provide the borrower with a notice to inform the borrower of the amount due to the lender and the availability of resources to avoid foreclosure. This notice shall be on a form the director of commerce prescribes and shall include all of the following:</u>	909
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<u>(1) An itemization of all past due amounts causing the loan to be in default;</u>	917
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<u>(2) An itemization of any other charges that the borrower must pay in order to be current on loan payments;</u>	919
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<u>(3) A statement that the borrower may have options available other than foreclosure, and that the borrower may discuss available options with the mortgage lender, the mortgage servicer, or a counselor approved by the United States department of housing and urban development;</u>	921
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<u>(4) The address, telephone number, and other contact information for the mortgage lender, the mortgage servicer, or an agent for either of them who is authorized to work with the borrower to avoid foreclosure;</u>	926
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<u>(5) The address, telephone number, and other contact information for the department of job and family services, including the following web site address: www.OhioMeansJobs.com;</u>	930
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<u>(6) The name, address, telephone number, and other contact</u>	933

<u>information for one or more United States department of housing and urban development-approved counseling agencies operating to assist borrowers in Ohio to avoid foreclosure;</u>	934 935 936
<u>(7) The address, telephone number, and other contact information for the consumer complaint sections of the division of financial institutions in the Ohio department of commerce and the Ohio attorney general;</u>	937 938 939 940
<u>(8) The following information prominently displayed:</u>	941
<u>"YOU HAVE THE RIGHT TO REMAIN IN THIS PROPERTY DURING THE FORECLOSURE PROCEEDINGS AND AFTER THE SHERIFF'S SALE UNTIL A COURT CONFIRMS THE SALE.</u>	942 943 944
<u>ADDRESS OF PROPERTY: .....</u>	945
<u>(9) Other information the director considers necessary and includes on the form.</u>	946 947
<u>(B) The mortgage servicer shall mail the notice this section requires to the last known address of the borrower and shall evidence the mailing by a certificate of mailing from the United States postal service.</u>	948 949 950 951
<u><b>Sec. 1323.04.</b> (A) Within three business days after mailing the notice section 1323.02 of the Revised Code requires, a mortgage servicer shall file with the administrative director of the Ohio supreme court the date the notice was mailed to the borrower and, unless prohibited by state or federal law, any additional information the administrative director requests.</u>	952 953 954 955 956 957
<u>(B) Within seven days after entering into a modification agreement, a mortgage servicer shall notify the administrative director of the nature and terms of an agreement with a borrower to do any of the following:</u>	958 959 960 961
<u>(1) Reduce or forego any fees or arrearages, including acceptance of a deed in lieu of foreclosure;</u>	962 963

<u>(2) Alter the terms of the residential mortgage loan agreement by a reduction in interest rate, lessening of monthly payment, increase in the term for repayment, deferment of interest or other payment, or alteration of a variable rate adjustment date;</u>	964
<u>(3) Refinance the loan under new terms.</u>	969
<u>(C) Any notice or filing this section requires shall be made in an electronic format as the administrative director prescribes, and contain the name and address of the borrower, the name and address of the mortgage servicer, and the name and address of the holder of the mortgage.</u>	970
<u>(D) The administrative director shall include all information received pursuant to this section in the state foreclosure database developed and maintained pursuant to section 1323.07 of the Revised Code. This information shall be available for review by the state foreclosure prevention project as described in section 1323.06 of the Revised Code.</u>	975
<u><b>Sec. 1323.05.</b> (A) The director of commerce shall adopt comprehensive minimum loan modification standards by rule to advise mortgage servicers of modification alternatives and to use to evaluate the loan modification efforts of mortgage servicers. The director shall design the standards to reflect modification alternatives that would keep a borrower in the borrower's home when the anticipated recovery under a loan modification or workout plan is greater than the anticipated recovery through foreclosure, on a net present value basis.</u>	981
<u>(B) The loan modification standards adopted pursuant to this section shall include some combination of the following features:</u>	990
<u>(1) An interest rate reduction, as needed, for a fixed term</u>	993

<u>of at least five years;</u>	994
<u>(2) An extension of the amortization period for the loan term, to not more than forty years from the original date of the loan;</u>	995
<u>(3) Deferral of some portion of the principal amount of the unpaid principal balance until maturity of the loan;</u>	996
<u>(4) Reduction of principal;</u>	997
<u>(5) Compliance with a federally mandated loan modification program;</u>	998
<u>(6) Other factors the director determines are appropriate, which may include efforts implemented in other states that have resulted in a reduction in foreclosures.</u>	999
 <u><b>Sec. 1323.06. The director of commerce shall establish the "state foreclosure prevention project" to collect residential mortgage foreclosure information, track loss mitigation efforts, encourage viable loan modifications, and seek solutions to avoid foreclosures for residential mortgage loans. In developing the project, the director may include input from the United States department of housing and urban development-approved housing counselors, community organizations, state agencies including the Ohio attorney general, mortgage lenders, mortgage servicers, and any other appropriate persons.</b></u>	1000
 <u><b>Sec. 1323.07. (A) The director of commerce shall design and develop, in consultation with the administrative director of the Ohio supreme court, the state foreclosure database to track residential mortgage foreclosure information and to promote the efforts of the state foreclosure prevention project. Not later than October 1, 2009, the administrative director of the Ohio supreme court shall implement the database.</b></u>	1001
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<u>(B) No person shall have access to the state foreclosure database except the following individuals or the individual's designated representative: the administrative director of the Ohio supreme court, the director of commerce, the superintendent of financial institutions, the Ohio attorney general, and the clerk of a court of common pleas for the purposes described in section 2303.33 of the Revised Code.</u>	1023
<u>(C) Any information provided for inclusion in the state foreclosure database is exclusively for the use and purposes of the state foreclosure prevention project. The database is not a public record subject to section 149.43 of the Revised Code and the information provided for and included in the database may not be disclosed except as this section provides. Any mortgage servicer shall have access only to the information submitted with respect to its own loans.</u>	1030
<u>(D) Providing information as this chapter requires for inclusion in the state foreclosure database does not violate any state law pertaining to financial privacy. A mortgage servicer shall be held harmless for any alleged breach of privacy rights of a borrower with respect to the information the mortgage servicer provides in accordance with this chapter.</u>	1038
<u><b>Sec. 1323.08.</b> (A) The director of commerce annually shall submit a report to the general assembly describing the operation of the state foreclosure prevention project. The director shall present information in the report in aggregate form, and may include the number of borrowers helped, the effectiveness of the funds in preventing foreclosure, recommendations for further efforts needed to reduce foreclosures, and any other aggregated information the director determines is pertinent or that the general assembly requests.</u>	1044
<u>(B) In preparing the report, the director shall review</u>	1053

information provided in the state foreclosure database to 1054  
determine all of the following: 1055

(1) Whether the loss mitigation programs and efforts 1056  
effectively address loan default issues; 1057

(2) The most effective means for establishing successful 1058  
foreclosure alternatives including loan modification programs; 1059

(3) Which procedures best comport with a servicer's 1060  
obligation to investors to lessen losses resulting from borrower 1061  
defaults. 1062

**Sec. 1323.09.** The superintendent of financial institutions in 1063  
the department of commerce shall review the information in the 1064  
state foreclosure database to determine whether any mortgage 1065  
servicer has failed to provide disclosures or information this 1066  
chapter requires or is not acting in good faith to provide 1067  
borrowers with an effective method to discuss payment options for 1068  
past due amounts and alternatives to foreclosure. If the 1069  
superintendent determines that a mortgage servicer has violated 1070  
any of these requirements, the superintendent may consider that 1071  
conduct or failure when determining the character and general 1072  
fitness of the mortgage servicer for its licensure or certificate 1073  
of registration as a mortgage servicer under this chapter or 1074  
Chapter 1321. of the Revised Code. 1075

**Sec. 1323.10.** (A) There is hereby established in the state 1076  
treasury the foreclosure prevention revolving trust fund, 1077  
comprised of moneys collected or accruing to the trust fund. 1078

(B) Each fiscal quarter the director of commerce shall 1079  
distribute the amounts in the foreclosure prevention revolving 1080  
trust fund as follows: 1081

(1) Ten per cent to the administrative director of the 1082  
supreme court, to establish, operate, and maintain the state 1083

<u>foreclosure database established pursuant to section 1323.07 of the Revised Code and to fund foreclosure mediation programs in the state;</u>	1084 1085 1086
<u>(2) Ten per cent to the department of commerce, which may be used for the following purposes:</u>	1087 1088
<u>(a) Grants to counseling foreclosure prevention entities for the purpose of maintaining or expanding foreclosure prevention counseling and related services and activities to assist homeowners to prevent foreclosure;</u>	1089 1090 1091 1092
<u>(b) Grants to individuals or counseling entities for the purpose of providing emergency foreclosure prevention assistance loans;</u>	1093 1094 1095
<u>(c) Loans and grants to nonprofit or local government entities to provide relocation assistance or acquire mortgage loans or properties from creditors in order to restructure the mortgage loans or restore the properties to productive use;</u>	1096 1097 1098 1099
<u>(d) Funding to establish, operate, and maintain the state foreclosure database established pursuant to section 1323.07 of the Revised Code;</u>	1100 1101 1102
<u>(e) Funding for the expenses of the state foreclosure prevention project and the associated costs the superintendent of financial institutions of the department of commerce and the director of commerce incur related to outreach and education and to support investigation of mortgage fraud and fraudulent foreclosure prevention schemes in the state of Ohio.</u>	1103 1104 1105 1106 1107 1108
<u>(3) Five per cent to the attorney general for investigation of illegal activities associated with mortgage fraud and foreclosure prevention fraud, which funds the attorney general may use to contract with local public prosecutors engaged in the investigation of foreclosure prevention fraud;</u>	1109 1110 1111 1112 1113

<u>(4) Thirty-seven and a half per cent to the department of development for deposit into the Ohio housing trust fund, and thirty-seven and a half per cent to the boards of county commissioners, to be distributed on a pro rata basis of the funds submitted with respect to foreclosure filings in each county under section 1323.11 of the Revised Code. The funds provided to the department of development and the boards of county commissioners under this division shall be used to provide the following:</u>	1114
<u>(a) Grants to counseling foreclosure prevention entities for the purpose of maintaining or expanding foreclosure prevention counseling and related services and activities to assist homeowners to prevent foreclosure;</u>	1115
<u>(b) Grants to individuals or counseling entities for the purpose of providing emergency foreclosure prevention assistance loans;</u>	1116
<u>(c) Loans and grants to nonprofit or local government entities to provide relocation assistance or acquire mortgage loans or properties from creditors in order to restructure the mortgage loans or restore the properties to productive use;</u>	1117
<u>(d) Foreclosure prevention services;</u>	1118
<u>(e) Amelioration of dilapidated and vacant properties;</u>	1119
<u>(f) Assistance with the development of county land banks;</u>	1120
<u>(g) Other activities as they relate to foreclosure.</u>	1121
<u>(C) For the purposes of division (B) of this section, the director of development and boards of county commissioners shall establish rules governing the procedures to qualify counseling and foreclosure prevention entities, nonprofit entities, and individuals for loan assistance to receive moneys from the revolving trust fund to carry out the purposes of division (B)(4) of this section.</u>	1122
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<u>(D) Any moneys distributed to the supreme court but not used for the purposes stated in division (B)(1) of this section shall be reallocated to the department of commerce for deposit into the foreclosure prevention revolving trust fund.</u>	1144 1145 1146 1147
<u>(E) Any moneys collected under this section but not allocated by the end of the fiscal year shall be available for allocation in the subsequent fiscal year.</u>	1148 1149 1150
<u><b>Sec. 1323.11.</b> (A) In addition to any filing fee required by law, a mortgage servicer that files a complaint to initiate a foreclosure action involving a residential mortgage loan simultaneously shall transmit a check in the amount of seven hundred fifty dollars payable to the department of commerce for deposit into the trust fund established under section 1323.10 of the Revised Code. The servicer may not in any manner add the amount paid pursuant to this division to the amount the borrower owes or seek to recover this cost from the borrower.</u>	1151 1152 1153 1154 1155 1156 1157 1158 1159
<u>(B) No court shall permit the filing of an action for a mortgage foreclosure or grant a judgment of foreclosure to any servicer of a residential loan unless that servicer provides evidence to the court that the servicer has complied with this section.</u>	1160 1161 1162 1163 1164
<u>(C) The director of commerce shall establish an accounting system to track the county that corresponds to each fee that is paid pursuant to this section. The accounting system shall be used to determine the share of the funds to be distributed to each county pursuant to section 1323.10 of the Revised Code.</u>	1165 1166 1167 1168 1169
<u>(D) The fee this section requires shall not be charged with respect to a filing for a foreclosure action that meets any of the following criteria:</u>	1170 1171 1172
<u>(1) A filing on an unoccupied property;</u>	1173

<u>(2) A filing on a property for which a filing fee was paid during the past twenty-four months with respect to the same mortgage loan;</u>	1174 1175 1176
<u>(3) A filing by a credit union;</u>	1177
<u>(4) A filing by a depository institution if that depository institution is headquartered in Ohio, has two and one-half billion dollars or less in total assets, and originated and services the mortgage loan being foreclosed.</u>	1178 1179 1180 1181
<u><b>Sec. 1323.20. (A) Sections 1323.20 to 1323.37 of the Revised Code shall be known as the "residential mortgage servicers registration act."</b></u>	1182 1183 1184
<u>(B) Sections 1323.20 to 1323.37 of the Revised Code do not apply to any of the following:</u>	1185 1186
<u>(1) Any entity that is chartered and lawfully doing business as a bank, savings bank, trust company, savings and loan association, or credit union under the authority of any law of this state, another state, or the United States;</u>	1187 1188 1189 1190
<u>(2) Life, property, or casualty insurance companies licensed to do business in this state;</u>	1191 1192
<u>(3) Any attorney or law firm acting on behalf of any mortgage note holder or mortgage servicer when acting in connection with the practice of law in this state, except as otherwise provided in division (D) of this section;</u>	1193 1194 1195 1196
<u>(4) Any political subdivision, or any governmental or other public agency, corporation, or instrumentality in or of the United States or any state;</u>	1197 1198 1199
<u>(5) An institution of higher education as defined in section 1713.01 of the Revised Code;</u>	1200 1201
<u>(6) A debt collector acting under the name of, and as agent</u>	1202

<u>for, a mortgage servicer registrant to collect a debt in default.</u>	1203
<u>(C) Mortgage lenders registered under section 1321.52 of the Revised Code and mortgage brokers registered under section 1322.02 of the Revised Code are exempt from the registration requirements of section 1323.21 of the Revised Code but shall comply with divisions (C), (D), (F), and (G) of section 1323.33, and sections 1323.34, 1323.35, and 1323.36 of the Revised Code in connection with the servicing of residential mortgage loans. Any violation of these sections is an unfair and deceptive practice in violation of section 1345.02 of the Revised Code and may result in administrative action and penalties the superintendent of financial institutions of the department of commerce imposes pursuant to sections 1321.54 and 1322.10 of the Revised Code.</u>	1204 1205 1206 1207 1208 1209 1210 1211 1212 1213 1214 1215
<u>(D) Any attorney or law firm primarily engaged in debt collection shall comply with division (D) of section 1323.33 and section 1323.36 of the Revised Code when acting as a mortgage servicer, notwithstanding the general exemption from sections 1323.20 to 1323.37 of the Revised Code. Any violation by an attorney of division (D) of section 1323.33 or section 1323.36 of the Revised Code, in connection with any debt collection activity that is not considered the practice of law, is deemed to be an unfair and deceptive practice in violation of section 1345.02 of the Revised Code.</u>	1216 1217 1218 1219 1220 1221 1222 1223 1224 1225
<u><b>Sec. 1323.21.</b> (A) No person, on that person's own behalf or on behalf of any other person, shall do either of the following unless that person is registered as a mortgage servicer and has a certificate of registration from the superintendent of financial institutions of the department of commerce:</u>	1226 1227 1228 1229 1230
<u>(1) Engage in the business of collecting money, credit, or chosess in action for residential mortgage loans or otherwise act as a mortgage servicer;</u>	1231 1232 1233

<u>(2) Collect accelerated mortgage payments from a biweekly or other accelerated payment plan that the person operates, arranges or offers to arrange for compensation or gain in connection with a residential mortgage loan.</u>	1234
<u>(B) Any person who acts in willful violation of division (A) of this section, after receiving written notice of the violation from the superintendent or a court, may not collect any amounts as interest or charges on that loan. Any amounts collected shall be credited as a principal reduction to the loan.</u>	1238
<u>(C)(1) When a registration expires for any reason and the former registrant continues to service residential mortgage loans in violation of division (A) of this section, the superintendent may take administrative action, including action on any subsequent application for a certificate of registration.</u>	1243
<u>(2) A servicer with an expired registration may not collect, charge, or retain any late fee, bad check charge except as incurred, charge related to default, cost to realize on its security interest, or prepayment penalty on any residential mortgage loan unless that servicer applies to the superintendent for a registration renewal and a certificate of registration prior to the first day of August of the year the registration expires and the superintendent approves that application.</u>	1248
<u>(D) No person shall conduct the business of a mortgage servicer in association with any exempt business if the superintendent has ordered that exempt business, in writing, to desist from conduct that the superintendent found to be a mere conduit for the mortgage servicer and that the association of the servicer and the exempt business is intended to conceal an evasion of sections 1323.20 to 1323.37 of the Revised Code or the rules adopted pursuant to those sections. Any determination made pursuant to this division shall be made in accordance with Chapter 119. of the Revised Code.</u>	1256

<u>Sec. 1323.22. (A) Any application for registration as a</u>	1266
<u>mortgage servicer shall be in writing, under oath, and in the form</u>	1267
<u>the superintendent of financial institutions of the department of</u>	1268
<u>commerce prescribes. It shall contain an undertaking by the</u>	1269
<u>applicant to abide by this chapter and any other information that</u>	1270
<u>the superintendent requires. Applicants that are foreign</u>	1271
<u>corporations shall obtain and maintain a license pursuant to</u>	1272
<u>Chapter 1703. of the Revised Code before seeking registration or</u>	1273
<u>registration renewal as a mortgage servicer.</u>	1274
<u>(B) Upon an applicant's filing an application and paying a</u>	1275
<u>nonrefundable two-hundred-dollar investigation fee, a</u>	1276
<u>nonrefundable one-thousand-dollar annual registration fee, and any</u>	1277
<u>additional fee required by law, the superintendent shall</u>	1278
<u>investigate the relevant facts. If the application requires</u>	1279
<u>investigation outside this state, the applicant may be required to</u>	1280
<u>advance sufficient funds to pay any of the actual expenses when it</u>	1281
<u>appears that these expenses will exceed two hundred dollars. The</u>	1282
<u>superintendent shall furnish an itemized statement of any expenses</u>	1283
<u>the applicant is required to pay. The superintendent shall not</u>	1284
<u>issue any certificate of registration unless all the required fees</u>	1285
<u>have been paid.</u>	1286
<u>(C) An applicant shall designate an employee or owner who has</u>	1287
<u>at least three years' experience in the mortgage, collections,</u>	1288
<u>servicing, or lending field as the applicant's operations manager.</u>	1289
<u>No operations manager shall be employed by any other mortgage</u>	1290
<u>servicer while acting as an operations manager. Any operations</u>	1291
<u>manager must be acceptable to the superintendent.</u>	1292
<u>(D) The superintendent may consider an application for</u>	1293
<u>registration as a mortgage servicer withdrawn if that application</u>	1294
<u>does not contain all of the information required under division</u>	1295
<u>(A) of this section and the applicant does not submit that</u>	1296

<u>information within ninety days after the superintendent requests the information in writing.</u>	1297
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<u>(E) The superintendent of financial institutions shall deposit any licensing fee, charge, or fine received pursuant to sections 1323.20 to 1323.37 of the Revised Code into the consumer finance fund in the state treasury, created under section 1321.21 of the Revised Code, unless otherwise specified by law.</u>	1299
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<u><b>Sec. 1323.23.</b> (A)(1) Any investigation the superintendent of financial institutions of the department of commerce undertakes with respect to an application for registration as a mortgage servicer shall include a civil records check of the applicant, including any individual whose identity is required to be disclosed in the application, and criminal records check at the time of the initial application and every five years thereafter, or upon a change of control of the registrant if the persons acquiring control have not had a criminal records check submitted to the superintendent within the past five years.</u>	1304
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<u>(2) Where the applicant is a business entity, the superintendent may require a civil and criminal background check of those persons that the superintendent determines have the authority to direct and control the operations of the applicant.</u>	1314
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<u>(B) When conducting a criminal background check, the superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor the superintendent approves, to conduct a criminal records check based on the applicant's fingerprints or if fingerprints are unreadable, based on the applicant's social security number in accordance with division (A)(12) of section 109.572 of the Revised Code. Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent of financial institutions shall request</u>	1319
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<u>that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check.</u>	1328 1329 1330
<u>(C) The applicant shall pay any fee required under division (C)(3) of section 109.572 of the Revised Code.</u>	1331 1332
<u><b>Sec. 1323.24.</b> (A) The superintendent of financial institutions of the department of commerce shall issue a certificate of registration as a mortgage servicer to an applicant if the superintendent finds that the applicant's financial responsibility, experience, character, and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of this chapter and the rules promulgated under it, and that the applicant has the requisite bond or applicable net worth as this chapter requires.</u>	1333 1334 1335 1336 1337 1338 1339 1340 1341 1342
<u>(B) Upon finding an applicant does not meet the conditions set forth in this chapter, the superintendent shall issue a notice of intent to deny an application for registration or renewal. The superintendent forthwith shall notify the applicant of the denial, the grounds for the denial, and the applicant's opportunity to be heard on the action in accordance with Chapter 119. of the Revised Code.</u>	1343 1344 1345 1346 1347 1348 1349
<u>(C) Any certificate issued pursuant to this section shall expire on the first day of July next after its issue, and on the first day of July in each succeeding year unless renewed by filing a renewal application and payment of an annual fee and any additional fee required by law, on or before the last day of June of each year.</u>	1350 1351 1352 1353 1354 1355
<u><b>Sec. 1323.25.</b> (A) To renew a registration as a mortgage servicer, a registrant shall timely file a renewal application on</u>	1356 1357

<u>a form the superintendent of financial institutions of the department of commerce prescribes, along with any additional information that the superintendent requires.</u>	1358 1359 1360
<u>(B) As a condition of renewal, a registrant must provide proof that the designated operation manager meets the criteria for initial approval set forth in section 1323.23 of the Revised Code and that the mortgage servicer meets the minimum standards for the issuance of the certificate of registration under sections 1323.22 to 1323.24 of the Revised Code.</u>	1361 1362 1363 1364 1365 1366
<u>(C) The superintendent shall not grant any renewal if the applicant's certificate of registration is subject to an order of suspension, revocation, or an unpaid and past due fine the superintendent has imposed.</u>	1367 1368 1369 1370
<u>(D) If an application for renewal of a certificate of registration does not contain all the information this section requires, and if the registrant does not submit that information to the superintendent within ninety days after the superintendent requests the information in writing, the superintendent may consider the application withdrawn.</u>	1371 1372 1373 1374 1375 1376
<u><b>Sec. 1323.26.</b> At any time there is a change of five per cent or more in the ownership of a registrant, the superintendent of financial institutions of the department of commerce may make any investigation necessary to determine whether any fact or condition presently exists that would have warranted the superintendent denying the original application had the fact or condition existed at the time of that application. If the superintendent finds such a fact or condition, the superintendent may revoke the registrant's registration and certificate pursuant to Chapter 119. of the Revised Code.</u>	1377 1378 1379 1380 1381 1382 1383 1384 1385 1386
<u><b>Sec. 1323.27.</b> (A) Each place of business to which borrowers</u>	1387

<u>are regularly directed to remit payment shall display its own certificate of registration. The superintendent of financial institutions of the department of commerce may issue additional certificates of registration to the same person for additional places of business upon compliance with the requirements governing the issuance of a single certificate.</u>	1388 1389 1390 1391 1392 1393
<u>(B)(1) Any change in the place of business to a location outside the original municipal corporation requires a new certificate of registration. A registrant who makes such a change of location shall submit a new application, pay the registration fee and, if the superintendent requires, pay an investigation fee of two hundred dollars. The registrant must have the new certificate before operating in the new location.</u>	1394 1395 1396 1397 1398 1399 1400
<u>(2) A registrant who wishes to change its place of business within the same municipal corporation shall give written notice of the change in advance to the superintendent, who shall provide a certificate for the new address without cost.</u>	1401 1402 1403 1404
<u>(C) A registrant that changes its name shall give written notice of the change to the superintendent prior to acting as a mortgage servicer under the new name. The superintendent shall provide a certificate in the new name without cost.</u>	1405 1406 1407 1408
<u>(D) A registrant shall keep each certificate conspicuously posted in each place of business. A certificate of registration is not transferable or assignable.</u>	1409 1410 1411
<u><b>Sec. 1323.28.</b> (A) Any person who acts as a mortgage servicer, if not bonded pursuant to division (B) of this section, shall maintain at all times both of the following:</u>	1412 1413 1414
<u>(1) A net worth of at least two hundred fifty thousand dollars;</u>	1415 1416
<u>(2) For each additional certificate of registration beyond</u>	1417

<u>the first, assets of at least fifty thousand dollars either in use</u>	1418
<u>or readily available for use in the conduct of the business.</u>	1419
<u>(B) Any person acting as a mortgage servicer by arranging</u>	1420
<u>biweekly or other accelerated payment plans and collecting those</u>	1421
<u>payments shall obtain and maintain in effect at all times a</u>	1422
<u>corporate surety bond issued by a bonding company or insurance</u>	1423
<u>company authorized to do business in this state. The servicer</u>	1424
<u>shall file a copy of the bond with the superintendent of financial</u>	1425
<u>institutions of the department of commerce. The bond shall meet</u>	1426
<u>all of the following conditions:</u>	1427
<u>(1) Be in favor of the superintendent;</u>	1428
<u>(2) Have a base penal sum of two hundred fifty thousand</u>	1429
<u>dollars for the first location and an additional penal sum of ten</u>	1430
<u>thousand dollars for each additional location that requires a</u>	1431
<u>separate certificate of registration;</u>	1432
<u>(3) Have a term that coincides with the term of registration;</u>	1433
<u>(4) Be for the exclusive benefit of any individual borrower</u>	1435
<u>injured by any violation of sections 1323.20 to 1323.37 of the</u>	1436
<u>Revised Code or the rules promulgated thereunder by a servicer,</u>	1437
<u>its employees, or agent;</u>	1438
<u>(5) Have an aggregate liability of the corporate surety for</u>	1439
<u>any and all breaches of the conditions of the bond not to exceed</u>	1440
<u>the penal sum of the bond.</u>	1441
<u>(C)(1) A mortgage servicer shall give notice to the</u>	1442
<u>superintendent by certified mail of any action that is brought by</u>	1443
<u>a borrower against the servicer alleging injury by a violation of</u>	1444
<u>sections 1323.20 to 1323.37 of the Revised Code and of any</u>	1445
<u>judgment that is entered against the servicer by a borrower</u>	1446
<u>injured by a violation of those sections. The notice shall provide</u>	1447
<u>details sufficient to identify the action or judgment. The</u>	1448

<u>servicer shall file the notice with the superintendent within ten days after the commencement of the action or receipt of the notice of entry of a judgment.</u>	1449
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<u>(2) A corporate surety shall give notice of any payment to the superintendent by certified mail within ten days after it pays any claim or judgment, with details sufficient to identify the person and the claim or judgment paid.</u>	1452
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<u>(D) Whenever the penal sum of the corporate surety bond is reduced by one or more recoveries or payments, a servicer 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 set forth in division (B) of this section.</u>	1456
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<u>(E) The liability of the corporate surety on the bond to the superintendent and to any borrower injured by a violation of sections 1323.20 to 1323.37 of the Revised Code is not 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 servicer, by the insolvency or bankruptcy of the servicer, or by the insolvency of the servicer's estate. The servicer shall maintain in effect liability for any act or omission that occurs during the term of the corporate surety bond for at least two years after the date on which the corporate surety bond is terminated or canceled.</u>	1463
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<u>(F) Neither the servicer nor the corporate surety shall cancel a corporate surety bond except upon notice to the superintendent by certified mail, return receipt requested. A cancellation is not effective until thirty days after the superintendent receives the notice.</u>	1474
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<u>(G) No servicer shall fail to comply with this section. Any</u>	1479

<u>servicer that fails to comply shall cease acting as a mortgage servicer in this state until that servicer complies with this section.</u>	1480
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 <u>Sec. 1323.29. (A) The superintendent of financial institutions of the department of commerce may adopt, in accordance with Chapter 119. of the Revised Code, rules to administer and enforce sections 1323.20 to 1323.99 of the Revised Code and to carry out the purposes of those sections.</u>	1483
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 <u>(B) The superintendent may investigate alleged violations of sections 1323.20 to 1323.37 of the Revised Code or the rules adopted thereunder, or complaints concerning any violation. In conducting an investigation, the superintendent, by subpoena, may compel 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 comply with the subpoena, or permit photocopying of any document subpoenaed, a court of common pleas, upon the superintendent's application, shall compel obedience by attachment proceedings for contempt or a refusal to testify.</u>	1488
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 <u>(C)(1) In accordance with Chapter 119. of the Revised Code, the superintendent may revoke, suspend, or refuse to renew any registration and certificate issued under this chapter if the superintendent finds any of the following:</u>	1500
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 <u>(a) A violation of or failure to comply with any provision of sections 1323.20 to 1323.37 of the Revised Code or the rules adopted under those sections, under Chapter 1345. of the Revised Code, federal debt collection laws, or any other law applicable to the business the registrant conducts under the registrant's certificate of registration;</u>	1504
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 <u>(b) The registrant has been convicted of or pleads guilty or</u>	1510

<u>nolo contendere in a domestic, foreign, or military court to any</u>	1511
<u>felony or any criminal offense involving theft, receiving stolen</u>	1512
<u>property, embezzlement, forgery, fraud, passing bad checks, money</u>	1513
<u>laundering, breach of trust, dishonesty, or drug trafficking, or</u>	1514
<u>any criminal offense involving money or securities;</u>	1515
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<u>(c) The registrant's certificate of registration, license, or</u>	1517
<u>comparable authority as a mortgage servicer has been revoked in</u>	1518
<u>any other state.</u>	1519
<u>(2) The superintendent may impose a monetary fine pursuant to</u>	1520
<u>division (F) of this section in addition to, or instead of, any</u>	1521
<u>revocation, suspension, or denial or in settlement of matters</u>	1522
<u>subject to claims under division (C)(1)(a) of this section.</u>	1523
<u>(3) Except as otherwise provided in section 1323.21 of the</u>	1524
<u>Revised Code, the revocation, suspension, or refusal to renew a</u>	1525
<u>registration does not impair the obligation of any pre-existing</u>	1526
<u>lawful contract made under this chapter if a mortgage servicer</u>	1527
<u>makes a good faith effort to promptly transfer its collection</u>	1528
<u>rights to a registrant or person exempt from registration. A</u>	1529
<u>servicer that does not make the requisite good faith effort is</u>	1530
<u>subject to additional monetary fines and legal or administrative</u>	1531
<u>action by the superintendent.</u>	1532
<u>(4) Nothing in this division limits a court's ability to</u>	1533
<u>impose a cease and desist order preventing any further business or</u>	1534
<u>servicing activity.</u>	1535
<u>(D) The superintendent may apply to the court of common pleas</u>	1536
<u>for an order enjoining any violation of sections 1323.20 to</u>	1537
<u>1323.37 of the Revised Code. Upon a showing that a person has</u>	1538
<u>committed or is about to commit a violation of sections 1323.20 to</u>	1539
<u>1323.37 of the Revised Code, the court shall grant an injunction,</u>	1540
<u>restraining order, or other appropriate relief. If the application</u>	1541

<u>to a court is for an order enjoining a person from acting as a registrant or mortgage servicer in violation of division (A) of section 1323.21 of the Revised Code, the superintendent may request, and the court may impose, a civil penalty for that unregistered or unlicensed conduct in an amount not to exceed five thousand dollars per violation.</u>	1542 1543 1544 1545 1546 1547
<u>(E) The superintendent may issue a cease and desist order if the superintendent determines that a person is engaged in or may be engaged in activities that violate sections 1323.20 to 1323.37 of the Revised Code or the rules adopted thereunder, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code.</u>	1548 1549 1550 1551 1552 1553
<u>(F)(1) The superintendent may impose a fine of not more than one thousand dollars for each day a violation of this chapter or the rules adopted under it is committed, repeated, or continued. In determining the amount of a fine to impose, the superintendent may consider all of the following:</u>	1554 1555 1556 1557 1558
(a) <u>The seriousness of the violation;</u>	1559
(b) <u>The servicer's good faith efforts to prevent the violation;</u>	1560 1561
(c) <u>The servicer's history regarding violations and compliance with the superintendent's orders;</u>	1562 1563
(d) <u>The servicer's financial resources;</u>	1564
(e) <u>Any other matters the superintendent considers appropriate in enforcing this chapter.</u>	1565 1566
<u>(2) Monetary fines imposed under this section do not preclude any criminal fine described in section 1323.99 of the Revised Code.</u>	1567 1568 1569
<u>(G) All fines collected pursuant to this section shall be paid to the treasurer of state to the credit of the consumer</u>	1570 1571

<u>finance fund created in section 1321.21 of the Revised Code.</u>	1572
<u><b>Sec. 1323.30. (A)(1) A mortgage servicer shall keep separate records pertaining to each loan serviced. The servicer shall preserve those records for so long as the servicer has responsibility for the loan and retain copies of those records for at least four years even if the servicer transfers the original copies for any reason. At any time responsibility for the loan is transferred to another servicer, the servicer who is ceasing responsibility shall transfer all original loan documents and records to the servicer who is assuming responsibility for the loan. Any system of electronic imaging of required records shall be approved by the superintendent of financial institutions of the department of commerce prior to its use but at no time shall such a system be a substitute for maintaining original documents as this section requires.</b></u>	1573 1574 1575 1576 1577 1578 1579 1580 1581 1582 1583 1584 1585 1586
<u>(2) As often as necessary, the superintendent may make or cause to be made an examination of records pertaining to loans serviced for the purpose of determining whether the servicer is complying with sections 1323.20 to 1323.37 of the Revised Code and of verifying any registrant's annual report.</u>	1587 1588 1589 1590 1591
<u>(B)(1) The superintendent may require each servicer to file each year a report under oath or affirmation, on forms the superintendent supplies, concerning the business and operations for the preceding calendar year. A servicer that operates two or more registered offices or who operates registered offices with one or more affiliated servicers, may file a composite report of the group of registered offices in lieu of individual reports.</u>	1592 1593 1594 1595 1596 1597 1598
<u>(2) The reports provided under division (B)(1) of this section are not public records and are not open to public inspection.</u>	1599 1600 1601
<u>(C)(1) The following information is confidential:</u>	1602

<u>(a) Examination information, and any information leading to or arising from an examination;</u>	1603
<u>(b) Investigation information, and any information arising from or leading to an investigation.</u>	1604
<u>(2) The information described in this division is confidential for all purposes except when it is necessary for the superintendent to take official action regarding the affairs of a servicer or in connection with criminal or civil proceedings to be initiated by a prosecuting attorney or the attorney general. This information may be introduced into evidence or disclosed pursuant to section 1181.25 of the Revised Code.</u>	1605
<u>(D) All application information is a public record as defined in section 149.43 of the Revised Code, except social security numbers, employer identification numbers, financial account numbers, the identity of the institution where financial accounts are maintained, personal financial information, fingerprint cards and the information contained on such cards, and criminal background information.</u>	1606
<u>(E) Nothing in this section prevents the superintendent from releasing information relating to servicers or exchanging that information with other financial institution regulatory authorities. For this purpose, a "financial institution regulatory authority" includes a regulator of a business activity in which a servicer is engaged or has applied to engage, to the extent that the regulator has jurisdiction over a servicer engaged in that business activity. A servicer is engaged in a business activity, and a regulator of that business activity has jurisdiction over the servicer, whether the servicer conducts the activity directly or a subsidiary or affiliate of the servicer conducts the activity.</u>	1607
<u>(F) Nothing in this section prevents the superintendent of</u>	1633

financial institutions from releasing information relating to 1634  
mortgage servicers to the attorney general, to the superintendent 1635  
of real estate and professional licensing of the department of 1636  
commerce for purposes relating to the administration of Chapters 1637  
4735. and 4763. of the Revised Code, to the superintendent of 1638  
insurance for purposes relating to the administration of Chapter 1639  
3953. of the Revised Code, to the commissioner of securities of 1640  
the department of commerce for purposes relating to the 1641  
administration of Chapter 1707. of the Revised Code, or to local 1642  
law enforcement agencies and local prosecutors. Information 1643  
released pursuant to this section remains confidential. The 1644  
superintendent of financial institutions, by rule, may designate 1645  
additional state agencies and regulatory authorities as entities 1646  
with which to share this confidential information. 1647

Sec. 1323.31. No person, in connection with any examination 1648  
or investigation conducted by the superintendent of financial 1649  
institutions of the department of commerce under this chapter, 1650  
shall knowingly do any of the following: 1651

(A) Circumvent, interfere with, obstruct, or fail to 1652  
cooperate, including making a false or misleading statement, 1653  
failing to produce records, or intimidating or suborning any 1654  
witness; 1655

(B) Withhold, abstract, remove, mutilate, destroy, or secrete 1656  
any books, records, computer records, or other information; 1657

(C) Tamper with, alter, or manufacture any evidence. 1658

Sec. 1323.32. (A) No mortgage servicer, through its 1659  
operations manager or otherwise, shall fail to reasonably 1660  
supervise persons the servicer employs or associates with, or to 1661  
establish reasonable procedures to avoid violations of sections 1662  
1323.20 to 1323.37 of the Revised Code or the rules adopted 1663

<u>thereunder, violations of applicable state and federal consumer and lending laws or rules by persons the servicer employs or associates with.</u>	1664
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<u>(B) Within ten business days of any change in a mortgage servicer's statutory agent designation or address, the servicer shall file with the superintendent of financial institutions of the department of commerce evidence that the servicer has filed such changes with the secretary of state.</u>	1667
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<u>(C)(1) At least thirty days prior to the closure of a registered office location, a mortgage servicer shall notify the superintendent by filing a notice of closure on a form approved by the superintendent. The notice shall indicate the custodian of the records and where the records will be maintained. Within five business days after the closure, the servicer shall surrender the certificate of registration issued to that location by returning it to the superintendent.</u>	1672
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<u>(2) The closure of an office and the surrender of a certificate does not affect a mortgage servicer's civil or criminal liability for acts committed before the surrender.</u>	1680
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<u>(D) A mortgage servicer shall maintain books and records in compliance with this chapter and make them available to the superintendent of financial institutions of the department of commerce. After any closure, records remain subject to examination and or investigation. The servicer shall send the superintendent written notice of any change in the location of the records or the custodian of those records.</u>	1683
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<u><b>Sec. 1323.33. (A) No mortgage servicer shall refuse to provide information regarding the amount required to pay in full a residential mortgage loan when the borrower or a person the borrower designates makes that request in writing. The servicer</b></u>	1690
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<u>shall provide the requested payoff statement without charge one</u>	1694
<u>time during any twelve-month period. If additional payoff</u>	1695
<u>statements are requested, the servicer may charge an amount not in</u>	1696
<u>excess of three dollars for each additional statement. The</u>	1697
<u>servicer shall provide any payoff statement within five business</u>	1698
<u>days of the request.</u>	1699
<u>(B) No mortgage servicer shall obtain a certificate of</u>	1700
<u>registration through any false or fraudulent representation of a</u>	1701
<u>material fact or any omission of a material fact required by state</u>	1702
<u>or federal law, or make any substantial misrepresentation in the</u>	1703
<u>registration application.</u>	1704
<u>(C) No mortgage servicer shall make false or misleading</u>	1705
<u>statements of a material fact, omissions of statements required by</u>	1706
<u>state or federal law, or false promises regarding a material fact,</u>	1707
<u>through advertising or other means, or engage in a continued</u>	1708
<u>course of misrepresentations.</u>	1709
<u>(D) No mortgage servicer shall engage in conduct that</u>	1710
<u>constitutes improper, fraudulent, or dishonest dealings.</u>	1711
<u>(E) No mortgage servicer or applicant for registration shall</u>	1712
<u>fail to notify the superintendent of financial institutions of the</u>	1713
<u>department of commerce within thirty days after the servicer or</u>	1714
<u>applicant has:</u>	1715
<u>(1) Been convicted of or pleads guilty or nolo contendere in</u>	1716
<u>a domestic, foreign, or military court to any felony;</u>	1717
<u>(2) Been convicted of or pleads guilty or nolo contendere in</u>	1718
<u>a domestic, foreign, or military court to any criminal offense</u>	1719
<u>involving theft, receiving stolen property, embezzlement, forgery,</u>	1720
<u>fraud, passing bad checks, money laundering, breach of trust,</u>	1721
<u>dishonesty, or drug trafficking, or any criminal offense involving</u>	1722
<u>money or securities;</u>	1723

<u>(3) Had a mortgage servicer registration, license, or comparable authority revoked in any other state.</u>	1724
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<u>(F) No mortgage servicer shall knowingly make, propose, or solicit fraudulent, false, or misleading statements on any mortgage servicing document or on any document related to an accounting of payments remitted or disbursed. 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.</u>	1726
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<u>(G) No mortgage servicer shall knowingly instruct, solicit, propose, or otherwise cause a borrower to sign in blank a document.</u>	1733
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<u>(H) Any violation of division (C), (D), (F), or (G) of this section, or section 1323.34, 1323.35, or 1323.36 of the Revised Code is an unfair and deceptive act or practice in violation of section 1345.02 of the Revised Code.</u>	1736
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<u><b>Sec. 1323.34.</b> (A) In addition to the duties imposed by common law or state or federal law, in the course of servicing residential mortgage loans in Ohio, a mortgage servicer shall do all of the following:</u>	1740
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<u>(1) Act with good faith and fair dealing in any transaction, practice, or course of business associated with servicing;</u>	1744
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<u>(2) Act with reasonable skill, care, and diligence;</u>	1746
<u>(3) Act in good faith to provide the borrower with the facts relating to the nature and extent of any delinquency or default and the amounts owed or necessary to reinstate the loan or cure the default;</u>	1747
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<u>(4) Subject to the servicer's duties and obligations under its mortgage servicing contract, attempt a resolution, modification, or workout to the delinquency of a borrower who</u>	1751
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<u>requests assistance;</u>	1754
<u>(5) Make a good faith effort to correct any erroneous information it has provided to any credit reporting agency;</u>	1755
<u>(6) Provide information regarding the amount required to pay in full a residential mortgage loan within five business days when requested by the borrower or by another person designated in writing by the borrower. The servicer shall provide the requested payoff statement without charge once during any twelve-month period. If additional payoff statements are requested, the servicer may charge an amount not in excess of three dollars for each additional statement.</u>	1757
<u>(7) Make all payments from any escrow account in a timely manner, so as to avoid the assessment of late fees, penalties, or consequential damages, notwithstanding any loan delinquency, unless there are insufficient funds in the escrow account to cover the payments;</u>	1765
<u>(8) Accept and credit each residential mortgage loan payment received on the date received;</u>	1770
<u>(9) Take all steps necessary to terminate a foreclosure action when the condition giving rise to action has been fully cured. Upon cure of a default, the servicer shall reinstate the borrower to the same position as if the default had not occurred, and nullify, as of the date of the cure, any acceleration of any obligation under the residential mortgage loan or note arising from the default.</u>	1772
<u>(10) In addition to the duties enumerated in sections 1323.20 to 1323.37 of the Revised Code, any mortgage servicer for a government-insured loan shall comply with the loss mitigation standards and guidelines as required by the insuring entity.</u>	1779
<u>(B) When establishing a loan modification solution for a borrower, a mortgage servicer shall seek to achieve long-term</u>	1783
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<u>sustainability for the borrower and adhere to the loan</u>	1785
<u>modification standards established under section 1323.05 of the</u>	1786
<u>Revised Code.</u>	1787
<u><b>Sec. 1323.35. No mortgage servicer shall do any of the</b></u>	1788
<u><b>following in connection with a residential mortgage loan:</b></u>	1789
<u>(A) Collect, charge, or retain any fee from the borrower</u>	1790
<u>unless the fee is reasonable, for a bona fide service rendered,</u>	1791
<u>and specifically authorized by the residential mortgage loan and</u>	1792
<u>permitted by law;</u>	1793
<u>(B) Initiate a foreclosure action without proof of ownership</u>	1794
<u>as evidenced by a declaration signed under penalty of perjury,</u>	1795
<u>stating that the party in interest has reviewed the original note</u>	1796
<u>and all subsequent assignments and has concluded that the party in</u>	1797
<u>interest owns the note or mortgage;</u>	1798
<u>(C) Fail to provide written notice to the borrower before</u>	1799
<u>acquiring and placing hazard, homeowner's, or flood insurance on a</u>	1800
<u>property or acquiring and placing such insurance if the mortgage</u>	1801
<u>servicer knows, or has reason to know, that a policy for such</u>	1802
<u>insurance is in effect;</u>	1803
<u>(D) Acquire and place hazard, homeowner's, or flood insurance</u>	1804
<u>on a property for an amount that exceeds the greater of the</u>	1805
<u>insurable improvements to the property, the last known coverage</u>	1806
<u>amount that was sufficient to meet the borrower's insurance</u>	1807
<u>obligations, or the unpaid balance owed by the borrower;</u>	1808
<u>(E) Fail to refund unearned premiums for insurance the</u>	1809
<u>mortgage servicer or its agents placed upon the borrower,</u>	1810
<u>providing there is reasonable evidence that the needed coverage</u>	1811
<u>had been obtained, the forced placement is not necessary, and the</u>	1812
<u>property is properly insured in accordance with the loan or note.</u>	1813
<u><b>Sec. 1323.36. (A) No mortgage servicer shall use unfair,</b></u>	1814

<u>deceptive or unconscionable means to collect or attempt to collect</u>	1815
<u>any claim in connection with a residential mortgage loan. Without</u>	1816
<u>limiting the general application of the foregoing, the following</u>	1817
<u>actions violate this section:</u>	1818
<u>(1) The collection or the attempt to collect any interest or</u>	1819
<u>other charge, fee, or expense that is incidental to the principal</u>	1820
<u>obligation, unless expressly authorized by the agreement creating</u>	1821
<u>the obligation and by law, including division (A) of section</u>	1822
<u>1323.35 of the Revised Code;</u>	1823
<u>(2) Any communication with a borrower if the mortgage</u>	1824
<u>servicer knows that the borrower is represented by an attorney and</u>	1825
<u>the attorney's name and address are known or could be easily</u>	1826
<u>ascertained. This prohibition does not apply if the borrower's</u>	1827
<u>attorney fails to respond within thirty days to answer</u>	1828
<u>correspondence, return phone calls, or discuss the obligation in</u>	1829
<u>question, or the attorney consents to the servicer having direct</u>	1830
<u>communication with the borrower;</u>	1831
<u>(3) Placing a telephone call or otherwise communicating by</u>	1832
<u>telephone with a borrower or third party, at any place including a</u>	1833
<u>place of employment, and falsely stating that the call is "urgent"</u>	1834
<u>or an "emergency";</u>	1835
<u>(4) Using profane or obscene language or language that is</u>	1836
<u>intended to unreasonably abuse the listener or reader;</u>	1837
<u>(5) Placing telephone calls without disclosure of the</u>	1838
<u>caller's identity and with the intent to annoy, harass, or</u>	1839
<u>threaten any person at the number called;</u>	1840
<u>(6) Causing expense to any person in the form of long</u>	1841
<u>distance telephone tolls, text messaging fees, or other charges</u>	1842
<u>the servicer causes by concealing the true purpose of the</u>	1843
<u>communication;</u>	1844

<u>(7) Causing a telephone to ring or engaging any person in a telephone conversation repeatedly or continuously, or at unusual times or times known to be inconvenient, with the intent to annoy, abuse, oppress, or threaten any person at the called number.</u>	1845
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<u>(B) The requirements set forth in this section are in addition to any other requirement set forth in federal or state law regulating the conduct of collection activities, including the Federal Fair Debt Collection Practices Act, 91 Stat. 874 (1977), 15 U.S.C. 1692 et seq.</u>	1850
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<u><b>Sec. 1323.361.</b> (A) No mortgage servicer, in conducting a mortgage servicer business, shall engage in any unfair, deceptive or unconscionable act in violation of Chapter 1345. of the Revised Code. Any violation of the sections set forth in division (H) of section 1323.33 or section 1323.34, 1323.35, or 1323.36 of the Revised Code is an unfair and deceptive act or practice in violation of section 1345.02 of the Revised Code. The attorney general may take enforcement action and a borrower may seek recovery under Chapter 1345. of the Revised Code for the violations set forth in this division.</u>	1855
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<u>(B) A borrower injured by a violation of division (A) of this section may not recover damages, attorney's fees, and costs under Chapter 1345. of the Revised Code if the borrower has recovered damages in a cause of action initiated under section 1323.37 of the Revised Code and the damages sought under Chapter 1345. of the Revised Code are based on the same acts or circumstances as the damages awarded under section 1323.37 of the Revised Code.</u>	1865
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<u><b>Sec. 1323.37.</b> (A) A borrower injured by a violation of sections 1323.20 to 1323.37 of the Revised Code may recover damages in an amount not less than all improper charges or fees</u>	1872
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<u>paid to the mortgage servicer, plus reasonable attorney's fees and court costs and also may be awarded punitive damages.</u>	1875
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<u>(B) Nothing in this section prevents recovery under division (B) or (C)(2) of section 1323.21 of the Revised Code.</u>	1877
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<u>(C) A borrower may not recover damages, attorney's fees, or costs under this section if the borrower also recovered damages in an action initiated under any section of Chapter 1321. or 1345. of the Revised Code and the damages so awarded were based on the same acts or circumstances as the damages sought under this section.</u>	1879
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 <u><b>Sec. 1323.99.</b> (A) Whoever violates division (A)(1) or (2) of section 1323.21, or division (F) or (G) of section 1323.33 of the Revised Code is guilty of a felony of the fifth degree.</u>	1885
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<u>(B) Whoever violates section 1323.31 of the Revised Code with the intent to interfere or obstruct an examination or investigation is guilty of a felony of the fourth degree.</u>	1888
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 <u><b>Sec. 2303.33.</b> (A) No court shall accept a complaint to initiate a foreclosure on a residential mortgage loan unless the filing contains a copy of the notice and information required by section 1323.02 of the Revised Code, a copy of the writing that section 2308.02 of the Revised Code requires, which shall be filed under seal in connection with the foreclosure, and a certification by the filer that all notices and information required by Chapter 1323. of the Revised Code have been provided, and the requisite periods of time have elapsed.</u>	1891
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<u>(B) A court or judicial officer may access the state foreclosure database established pursuant to section 1323.07 of the Revised Code to confirm information provided pursuant to this section. A materially inaccurate statement in the filer's</u>	1900
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<u>certification is cause for dismissal of the action without prejudice and for payment by the filing party of costs the borrower incurs in defending the foreclosure proceeding.</u>	1904 1905 1906
<u>(C) Along with the summons that the clerk of courts issues to the owner of a property when a residential mortgage foreclosure action is filed, the clerk shall provide a notice of the six-month moratorium that section 2308.03 of the Revised Code establishes, so long as the moratorium remains in effect.</u>	1907 1908 1909 1910 1911
<u>(D) Within three business days after issuing a writ of execution in a residential foreclosure action as described in section 2329.091 of the Revised Code, the clerk of court shall file information of that action with the administrative director of the Ohio supreme court for inclusion in the state foreclosure database. The filing shall contain the name and address of the borrower, the date of the writ, and the name of the mortgage servicer or mortgage holder that filed the complaint to initiate the foreclosure action.</u>	1912 1913 1914 1915 1916 1917 1918 1919 1920
<u>(E) As used in this section, "residential mortgage," "residential mortgage loan," and "mortgage servicer" have the same meanings as in section 1323.01 of the Revised Code.</u>	1921 1922 1923
<u><b>Sec. 2308.01.</b> (A) As used in this chapter, "residential mortgage," "residential mortgage loan," "mortgage servicer," "subprime mortgage loan," "unoccupied," "depository institution," and "credit union" have the same meanings as in section 1323.01 of the Revised Code.</u>	1924 1925 1926 1927 1928
<u>(B) Nothing in this chapter limits a court's inherent equitable jurisdiction.</u>	1929 1930
<u><b>Sec. 2308.02.</b> (A) No person shall file a complaint to initiate a residential mortgage foreclosure action unless that complaint is accompanied by a writing that contains all of the</u>	1931 1932 1933

<u>following:</u>	1934
(1) <u>A statement setting forth the name of the holder of the note and asserting that the named holder is the true party in interest with a right to file the action;</u>	1935 1936 1937
(2) <u>A statement as to whether the mortgage note has been securitized and if so, the identity of any mortgage-backed security that holds the loan and the name of the trustee of that mortgage-backed security;</u>	1938 1939 1940 1941
(3) <u>A statement as to whether the residential property is occupied and the date that its occupancy status last was assessed;</u>	1942 1943
(4) <u>Evidence that a check for seven hundred fifty dollars has been transmitted to the department of commerce as required under section 1323.11 of the Revised Code, or evidence that the person is exempt from the filing fee pursuant to section 1323.11 of the Revised Code.</u>	1944 1945 1946 1947 1948
(B) <u>By filing a foreclosure action, an attorney avers that the attorney has a direct line of communication with the plaintiff and the plaintiff's loan servicer and can negotiate on behalf of the plaintiff and the plaintiff's loan servicer.</u>	1949 1950 1951 1952
(C) <u>Any complaint to initiate a residential mortgage foreclosure action shall be accompanied by a copy of an appraisal of the property, conducted within the prior three months by an appraiser who is certified or licensed pursuant to Chapter 4763. of the Revised Code to perform residential appraisals.</u>	1953 1954 1955 1956 1957 1958
<u>Sec. 2308.021. (A)(1) If a plaintiff in a foreclosure suit has a reasonable suspicion that the property which is the subject of the foreclosure has been vacated, the plaintiff may request that a law enforcement officer having jurisdiction over the subject property inspect the property and take any other</u>	1959 1960 1961 1962 1963

<u>reasonable action to ascertain if the property has been vacated.</u>	1964
<u>(2) A village, city, township, or county may set a fee for the property inspection described in division (A)(1) of this section.</u>	1965
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<u>(3) Any law enforcement officer conducting an inspection under division (A)(1) of this section and acting in good faith is immune from suit for any actions undertaken during such inspection.</u>	1968
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<u>(4) A law enforcement officer who conducts an inspection pursuant to division (A)(1) of this section shall issue a written report to the plaintiff stating an opinion as to whether or not the property has been vacated.</u>	1972
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<u>(5) After the property is inspected, the plaintiff may request an ex parte order or other order from the court granting plaintiff sole possession of the property. If the inspection report indicates that the property has been vacated, the plaintiff may take immediate possession of the property, but shall request an order of possession from the court within five business days after taking possession.</u>	1976
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<u>(B) The remedies set out in division (A) of this section are in addition to any other rights or remedies a party to a foreclosure suit may have.</u>	1983
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<u><b>Sec. 2308.03.</b> (A)(1) There is hereby declared a six-month moratorium during which mortgage foreclosure proceedings are stayed on residential properties occupied by the owner of the property or the tenant of that owner, to commence on the effective date of this section.</u>	1986
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<u>(2) The moratorium this section establishes does not apply to any of the following:</u>	1991
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<u>(a) Unoccupied properties;</u>	1993

<u>(b) Foreclosed properties that have been sold at auction and are awaiting a court's confirmation of the sale;</u>	1994 1995
<u>(c) A foreclosure action that a depository institutions files if that depository institution is headquartered in Ohio, has two and one-half billion dollars or less in total assets, and originated and services the mortgage loan being foreclosed;</u>	1996 1997 1998 1999
<u>(d) A foreclosure action that a credit union files.</u>	2000
<u>(3) The moratorium this section establishes does not prohibit the filing of new foreclosure actions.</u>	2001 2002
<u>(B) Upon the filing of a residential mortgage foreclosure action, the clerk of courts shall send with the summons to the borrower a notice that a moratorium is in effect and that proceedings have been stayed to give the borrower an opportunity to negotiate a workout or modification of the mortgage loan with the mortgage servicer. The clerk shall send the same notice to all qualified defendants in foreclosure actions currently pending as of the effective date of this bill.</u>	2003 2004 2005 2006 2007 2008 2009 2010
<u>(C)(1) During the moratorium, a foreclosed borrower shall make payments each month in an amount equal to one-half of the monthly payment that was in effect at the time the foreclosure action was filed, or other amount that the judge determines is just and equitable. The payments shall be allocated first for taxes and insurance, if the borrower's mortgage loan required such payments into escrow, then to interest and any remaining amounts to principal. The borrower shall make the payments to the mortgage servicer to whom the borrower made payments at the time the foreclosure action was filed.</u>	2011 2012 2013 2014 2015 2016 2017 2018 2019 2020
<u>(2) No mortgage servicer shall refuse to accept the payments that this section describes.</u>	2021 2022
<u>(D) If a borrower fails to make the payments that this section requires, thirty days after a missed payment, the party</u>	2023 2024

<u>who filed the action may petition the court for the foreclosure action to resume and that action shall resume as if there were no moratorium.</u>	2025 2026 2027
<u>(E) At any time during the moratorium, a borrower may petition the court to request that the foreclosure action on the borrower's property proceed as if there were no moratorium.</u>	2028 2029 2030
<u>(F) Nothing in this section prevents the clerk of courts or the plaintiff from taking any action to perfect service of the summons.</u>	2031 2032 2033
<u>(G) During the time of the moratorium, the borrower shall make a good faith effort to maintain the property and shall grant entry to inspect the property to the servicer or other representative of the servicer or mortgagor, upon a twenty-four-hour written notice from the servicer.</u>	2034 2035 2036 2037 2038
<b>Sec. 5713.03.</b> The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of each separate tract, lot, or parcel of real property and of buildings, structures, and improvements located thereon and the current agricultural use value of land valued for tax purposes in accordance with section 5713.31 of the Revised Code, in every district, according to the rules prescribed by this chapter and section 5715.01 of the Revised Code, and in accordance with the uniform rules and methods of valuing and assessing real property as adopted, prescribed, and promulgated by the tax commissioner. <del>He</del> <u>The auditor</u> shall determine the taxable value of all real property by reducing its true or current agricultural use value by the percentage ordered by the commissioner. In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time, either before or	2039 2040 2041 2042 2043 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054 2055

after the tax lien date, the auditor shall consider the sale price of such tract, lot, or parcel to be the true value for taxation purposes. <u>The auditor shall treat a short sale, as defined in section 1323.01 of the Revised Code, as an arm's length sale for taxation purposes.</u> However, the sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the property sold if subsequent to the sale:	2056 2057 2058 2059 2060 2061 2062 2063
(A) The tract, lot, or parcel of real estate loses value due to some casualty:	2064 2065
(B) An improvement is added to the property. Nothing in this section or section 5713.01 of the Revised Code and no rule adopted under section 5715.01 of the Revised Code shall require the county auditor to change the true value in money of any property in any year except a year in which the tax commissioner is required to determine under section 5715.24 of the Revised Code whether the property has been assessed as required by law.	2066 2067 2068 2069 2070 2071 2072
The county auditor shall adopt and use a real property record approved by the commissioner for each tract, lot, or parcel of real property, setting forth the true and taxable value of land and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, the number of acres of arable land, permanent pasture land, woodland, and wasteland in each tract, lot, or parcel. <del>He</del> <u>The auditor</u> shall record pertinent information and the true and taxable value of each building, structure, or improvement to land, which value shall be included as a separate part of the total value of each tract, lot, or parcel of real property.	2073 2074 2075 2076 2077 2078 2079 2080 2081 2082 2083
<b>Section 2.</b> That existing sections 109.572, 1181.05, 1181.21, 1321.52, 1322.05, and 5713.03 of the Revised Code are hereby repealed.	2084 2085 2086

<b>Section 3.</b> Section 2308.03 of the Revised Code is hereby repealed, effective six months after the effective date of this act.	2087 2088 2089
<b>Section 4.</b> Section 109.572 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 195, Sub. H.B. 545, and Sub. S.B. 247, all of the 127th General Assembly. 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 composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.	2090 2091 2092 2093 2094 2095 2096 2097 2098
<b>Section 5.</b> The General Assembly enacts section 2308.03 of the Revised Code as an extraordinary measure necessary to respond to an emergency situation created by the mortgage foreclosure crisis in this state. The high rate of residential mortgage foreclosures is proving harmful to families, lenders, and communities alike. The purpose of enacting this section is to mitigate the very negative impact of the current situation and to preserve property values by providing time for solutions to begin to have an impact. These solutions that need time to be effective include implementing federal and state initiatives that provide assistance and guidance to homeowners, lenders, and communities.	2099 2100 2101 2102 2103 2104 2105 2106 2107 2108 2109
<b>Section 6.</b> Section 1323.21 of the Revised Code takes effect six months after the effective date of this act. During that six-month period, the Superintendent of Financial Institutions of the Department of Commerce may take applications for registration as a mortgage servicer, process the applications, and issue certificates of registration as the Superintendent is able. During that time, no mortgage servicer is required to have a certificate	2110 2111 2112 2113 2114 2115 2116

of registration and the Superintendent is not obligated to issue 2117  
certificates until the Superintendent is able. 2118