

LSC 128 0274-5

**128th General Assembly
Regular Session
2009-2010**

Sub. H. B. No. 3

A BILL

To amend sections 109.572 and 1321.52 and to enact 1
sections 1323.01 to 1323.11, 1323.20 to 1323.36, 2
1323.361, 1323.37, 1323.99, 2303.33, 2308.01, 3
2308.02, 2308.03, and 2308.04 of the Revised Code 4
to declare a six-month moratorium on mortgage 5
foreclosures, to provide courts authority to 6
modify mortgage payments on foreclosures of 7
subprime mortgages, to require registration of 8
residential mortgage servicers, to regulate 9
residential mortgage servicers, 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
to terminate provisions of this act six months 14
after its effective date by repealing section 15
2308.03 of the Revised Code on that date, to 16
terminate certain provisions of this act three 17
years after its effective date by repealing 18
section 2308.04 of the Revised Code on that date, 19
and to declare an emergency. 20

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

Section 1. That sections 109.572 and 1321.52 be amended and 21
sections 1323.01, 1323.02, 1323.04, 1323.05, 1323.06, 1323.07, 22

1323.08, 1323.09, 1323.10, 1323.11, 1323.20, 1323.21, 1323.22, 23
1323.23, 1323.24, 1323.25, 1323.26, 1323.27, 1323.28, 1323.29, 24
1323.30, 1323.31, 1323.32, 1323.33, 1323.34, 1323.35, 1323.36, 25
1323.361, 1323.37, 1323.99, 2303.33, 2308.01, 2308.02, 2308.03, 26
and 2308.04 of the Revised Code be enacted to read as follows: 27

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 28
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 29
a completed form prescribed pursuant to division (C)(1) of this 30
section, and a set of fingerprint impressions obtained in the 31
manner described in division (C)(2) of this section, the 32
superintendent of the bureau of criminal identification and 33
investigation shall conduct a criminal records check in the manner 34
described in division (B) of this section to determine whether any 35
information exists that indicates that the person who is the 36
subject of the request previously has been convicted of or pleaded 37
guilty to any of the following: 38

(a) A violation of section 2903.01, 2903.02, 2903.03, 39
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 40
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 41
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 42
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 43
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 44
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 45
2925.06, or 3716.11 of the Revised Code, felonious sexual 46
penetration in violation of former section 2907.12 of the Revised 47
Code, a violation of section 2905.04 of the Revised Code as it 48
existed prior to July 1, 1996, a violation of section 2919.23 of 49
the Revised Code that would have been a violation of section 50
2905.04 of the Revised Code as it existed prior to July 1, 1996, 51
had the violation been committed prior to that date, or a 52
violation of section 2925.11 of the Revised Code that is not a 53

minor drug possession offense; 54

(b) A violation of an existing or former law of this state, 55
any other state, or the United States that is substantially 56
equivalent to any of the offenses listed in division (A)(1)(a) of 57
this section. 58

(2) On receipt of a request pursuant to section 5123.081 of 59
the Revised Code with respect to an applicant for employment in 60
any position with the department of mental retardation and 61
developmental disabilities, pursuant to section 5126.28 of the 62
Revised Code with respect to an applicant for employment in any 63
position with a county board of mental retardation and 64
developmental disabilities, or pursuant to section 5126.281 of the 65
Revised Code with respect to an applicant for employment in a 66
direct services position with an entity contracting with a county 67
board for employment, a completed form prescribed pursuant to 68
division (C)(1) of this section, and a set of fingerprint 69
impressions obtained in the manner described in division (C)(2) of 70
this section, the superintendent of the bureau of criminal 71
identification and investigation shall conduct a criminal records 72
check. The superintendent shall conduct the criminal records check 73
in the manner described in division (B) of this section to 74
determine whether any information exists that indicates that the 75
person who is the subject of the request has been convicted of or 76
pleaded guilty to any of the following: 77

(a) A violation of section 2903.01, 2903.02, 2903.03, 78
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 79
2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 80
2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 81
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 82
2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 83
2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 84
2925.03, or 3716.11 of the Revised Code; 85

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

(3) On receipt of a request pursuant to section 173.27, 173.394, 3712.09, 3721.121, or 3722.151 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position for which a criminal records check is required by those sections. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

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

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

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

a home health agency as a person responsible for the care, 118
custody, or control of a child, a completed form prescribed 119
pursuant to division (C)(1) of this section, and a set of 120
fingerprint impressions obtained in the manner described in 121
division (C)(2) of this section, the superintendent of the bureau 122
of criminal identification and investigation shall conduct a 123
criminal records check. The superintendent shall conduct the 124
criminal records check in the manner described in division (B) of 125
this section to determine whether any information exists that 126
indicates that the person who is the subject of the request 127
previously has been convicted of or pleaded guilty to any of the 128
following: 129

(a) A violation of section 2903.01, 2903.02, 2903.03, 130
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 131
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 132
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 133
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 134
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 135
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 136
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 137
violation of section 2925.11 of the Revised Code that is not a 138
minor drug possession offense; 139

(b) An existing or former law of this state, any other state, 140
or the United States that is substantially equivalent to any of 141
the offenses listed in division (A)(4)(a) of this section. 142

(5) On receipt of a request pursuant to section 5111.032, 143
5111.033, or 5111.034 of the Revised Code, a completed form 144
prescribed pursuant to division (C)(1) of this section, and a set 145
of fingerprint impressions obtained in the manner described in 146
division (C)(2) of this section, the superintendent of the bureau 147
of criminal identification and investigation shall conduct a 148
criminal records check. The superintendent shall conduct the 149

criminal records check in the manner described in division (B) of 150
this section to determine whether any information exists that 151
indicates that the person who is the subject of the request 152
previously has been convicted of, has pleaded guilty to, or has 153
been found eligible for intervention in lieu of conviction for any 154
of the following: 155

(a) A violation of section 2903.01, 2903.02, 2903.03, 156
2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 157
2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 158
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 159
2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 160
2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 161
2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 162
2913.40, 2913.43, 2913.47, 2913.48, 2913.49, 2913.51, 2917.11, 163
2919.12, 2919.22, 2919.24, 2919.25, 2921.13, 2921.36, 2923.02, 164
2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 2925.04, 165
2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 2925.23, or 166
3716.11 of the Revised Code, felonious sexual penetration in 167
violation of former section 2907.12 of the Revised Code, a 168
violation of section 2905.04 of the Revised Code as it existed 169
prior to July 1, 1996, a violation of section 2919.23 of the 170
Revised Code that would have been a violation of section 2905.04 171
of the Revised Code as it existed prior to July 1, 1996, had the 172
violation been committed prior to that date; 173

(b) An existing or former law of this state, any other state, 174
or the United States that is substantially equivalent to any of 175
the offenses listed in division (A)(5)(a) of this section. 176

(6) On receipt of a request pursuant to section 3701.881 of 177
the Revised Code with respect to an applicant for employment with 178
a home health agency in a position that involves providing direct 179
care to an older adult, a completed form prescribed pursuant to 180
division (C)(1) of this section, and a set of fingerprint 181

impressions obtained in the manner described in division (C)(2) of 182
this section, the superintendent of the bureau of criminal 183
identification and investigation shall conduct a criminal records 184
check. The superintendent shall conduct the criminal records check 185
in the manner described in division (B) of this section to 186
determine whether any information exists that indicates that the 187
person who is the subject of the request previously has been 188
convicted of or pleaded guilty to any of the following: 189

(a) A violation of section 2903.01, 2903.02, 2903.03, 190
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 191
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 192
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 193
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 194
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 195
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 196
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 197
2925.22, 2925.23, or 3716.11 of the Revised Code; 198

(b) An existing or former law of this state, any other state, 199
or the United States that is substantially equivalent to any of 200
the offenses listed in division (A)(6)(a) of this section. 201

(7) When conducting a criminal records check upon a request 202
pursuant to section 3319.39 of the Revised Code for an applicant 203
who is a teacher, in addition to the determination made under 204
division (A)(1) of this section, the superintendent shall 205
determine whether any information exists that indicates that the 206
person who is the subject of the request previously has been 207
convicted of or pleaded guilty to any offense specified in section 208
3319.31 of the Revised Code. 209

(8) On receipt of a request pursuant to section 2151.86 of 210
the Revised Code, a completed form prescribed pursuant to division 211
(C)(1) of this section, and a set of fingerprint impressions 212
obtained in the manner described in division (C)(2) of this 213

section, the superintendent of the bureau of criminal 214
identification and investigation shall conduct a criminal records 215
check in the manner described in division (B) of this section to 216
determine whether any information exists that indicates that the 217
person who is the subject of the request previously has been 218
convicted of or pleaded guilty to any of the following: 219

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 220
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 221
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 222
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 223
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 224
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 225
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 226
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 227
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 228
of the Revised Code, a violation of section 2905.04 of the Revised 229
Code as it existed prior to July 1, 1996, a violation of section 230
2919.23 of the Revised Code that would have been a violation of 231
section 2905.04 of the Revised Code as it existed prior to July 1, 232
1996, had the violation been committed prior to that date, a 233
violation of section 2925.11 of the Revised Code that is not a 234
minor drug possession offense, two or more OVI or OVUAC violations 235
committed within the three years immediately preceding the 236
submission of the application or petition that is the basis of the 237
request, or felonious sexual penetration in violation of former 238
section 2907.12 of the Revised Code; 239

(b) A violation of an existing or former law of this state, 240
any other state, or the United States that is substantially 241
equivalent to any of the offenses listed in division (A)(8)(a) of 242
this section. 243

(9) Upon receipt of a request pursuant to section 5104.012 or 244
5104.013 of the Revised Code, a completed form prescribed pursuant 245

to division (C)(1) of this section, and a set of fingerprint 246
impressions obtained in the manner described in division (C)(2) of 247
this section, the superintendent of the bureau of criminal 248
identification and investigation shall conduct a criminal records 249
check in the manner described in division (B) of this section to 250
determine whether any information exists that indicates that the 251
person who is the subject of the request has been convicted of or 252
pleaded guilty to any of the following: 253

(a) A violation of section 2903.01, 2903.02, 2903.03, 254
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 255
2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 256
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 257
2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 258
2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 259
2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32, 260
2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 261
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 262
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 263
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 264
3716.11 of the Revised Code, felonious sexual penetration in 265
violation of former section 2907.12 of the Revised Code, a 266
violation of section 2905.04 of the Revised Code as it existed 267
prior to July 1, 1996, a violation of section 2919.23 of the 268
Revised Code that would have been a violation of section 2905.04 269
of the Revised Code as it existed prior to July 1, 1996, had the 270
violation been committed prior to that date, a violation of 271
section 2925.11 of the Revised Code that is not a minor drug 272
possession offense, a violation of section 2923.02 or 2923.03 of 273
the Revised Code that relates to a crime specified in this 274
division, or a second violation of section 4511.19 of the Revised 275
Code within five years of the date of application for licensure or 276
certification. 277

(b) A violation of an existing or former law of this state, 278
any other state, or the United States that is substantially 279
equivalent to any of the offenses or violations described in 280
division (A)(9)(a) of this section. 281

(10) Upon receipt of a request pursuant to section 5153.111 282
of the Revised Code, a completed form prescribed pursuant to 283
division (C)(1) of this section, and a set of fingerprint 284
impressions obtained in the manner described in division (C)(2) of 285
this section, the superintendent of the bureau of criminal 286
identification and investigation shall conduct a criminal records 287
check in the manner described in division (B) of this section to 288
determine whether any information exists that indicates that the 289
person who is the subject of the request previously has been 290
convicted of or pleaded guilty to any of the following: 291

(a) A violation of section 2903.01, 2903.02, 2903.03, 292
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 293
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 294
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 295
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 296
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 297
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 298
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 299
felonious sexual penetration in violation of former section 300
2907.12 of the Revised Code, a violation of section 2905.04 of the 301
Revised Code as it existed prior to July 1, 1996, a violation of 302
section 2919.23 of the Revised Code that would have been a 303
violation of section 2905.04 of the Revised Code as it existed 304
prior to July 1, 1996, had the violation been committed prior to 305
that date, or a violation of section 2925.11 of the Revised Code 306
that is not a minor drug possession offense; 307

(b) A violation of an existing or former law of this state, 308
any other state, or the United States that is substantially 309

equivalent to any of the offenses listed in division (A)(10)(a) of 310
this section. 311

(11) On receipt of a request for a criminal records check 312
from an individual pursuant to section 4749.03 or 4749.06 of the 313
Revised Code, accompanied by a completed copy of the form 314
prescribed in division (C)(1) of this section and a set of 315
fingerprint impressions obtained in a manner described in division 316
(C)(2) of this section, the superintendent of the bureau of 317
criminal identification and investigation shall conduct a criminal 318
records check in the manner described in division (B) of this 319
section to determine whether any information exists indicating 320
that the person who is the subject of the request has been 321
convicted of or pleaded guilty to a felony in this state or in any 322
other state. If the individual indicates that a firearm will be 323
carried in the course of business, the superintendent shall 324
require information from the federal bureau of investigation as 325
described in division (B)(2) of this section. The superintendent 326
shall report the findings of the criminal records check and any 327
information the federal bureau of investigation provides to the 328
director of public safety. 329

(12) On receipt of a request pursuant to section 1321.37, 330
1322.03, 1322.031, 1323.23, or 4763.05 of the Revised Code, a 331
completed form prescribed pursuant to division (C)(1) of this 332
section, and a set of fingerprint impressions obtained in the 333
manner described in division (C)(2) of this section, the 334
superintendent of the bureau of criminal identification and 335
investigation shall conduct a criminal records check with respect 336
to any person who has applied for a license, permit, or 337
certification from the department of commerce or a division in the 338
department. The superintendent shall conduct the criminal records 339
check in the manner described in division (B) of this section to 340
determine whether any information exists that indicates that the 341

person who is the subject of the request previously has been 342
convicted of or pleaded guilty to any of the following: a 343
violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 344
2925.03 of the Revised Code; any other criminal offense involving 345
theft, receiving stolen property, embezzlement, forgery, fraud, 346
passing bad checks, money laundering, or drug trafficking, or any 347
criminal offense involving money or securities, as set forth in 348
Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 349
the Revised Code; or any existing or former law of this state, any 350
other state, or the United States that is substantially equivalent 351
to those offenses. 352

(13) On receipt of a request for a criminal records check 354
from the treasurer of state under section 113.041 of the Revised 355
Code or from an individual under section 4701.08, 4715.101, 356
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 357
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 358
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 359
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 360
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 361
a completed form prescribed under division (C)(1) of this section 362
and a set of fingerprint impressions obtained in the manner 363
described in division (C)(2) of this section, the superintendent 364
of the bureau of criminal identification and investigation shall 365
conduct a criminal records check in the manner described in 366
division (B) of this section to determine whether any information 367
exists that indicates that the person who is the subject of the 368
request has been convicted of or pleaded guilty to any criminal 369
offense in this state or any other state. The superintendent shall 370
send the results of a check requested under section 113.041 of the 371
Revised Code to the treasurer of state and shall send the results 372
of a check requested under any of the other listed sections to the 373
licensing board specified by the individual in the request. 374

375

(14) On receipt of a request pursuant to section 1121.23, 376
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 377
Code, a completed form prescribed pursuant to division (C)(1) of 378
this section, and a set of fingerprint impressions obtained in the 379
manner described in division (C)(2) of this section, the 380
superintendent of the bureau of criminal identification and 381
investigation shall conduct a criminal records check in the manner 382
described in division (B) of this section to determine whether any 383
information exists that indicates that the person who is the 384
subject of the request previously has been convicted of or pleaded 385
guilty to any criminal offense under any existing or former law of 386
this state, any other state, or the United States. 387

(15) Not later than thirty days after the date the 388
superintendent receives a request of a type described in division 389
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), 390
or (14) of this section, the completed form, and the fingerprint 391
impressions, the superintendent shall send the person, board, or 392
entity that made the request any information, other than 393
information the dissemination of which is prohibited by federal 394
law, the superintendent determines exists with respect to the 395
person who is the subject of the request that indicates that the 396
person previously has been convicted of or pleaded guilty to any 397
offense listed or described in division (A)(1), (2), (3), (4), 398
(5), (6), (7), (8), (9), (10), (11), (12), or (14) of this 399
section, as appropriate. The superintendent shall send the person, 400
board, or entity that made the request a copy of the list of 401
offenses specified in division (A)(1), (2), (3), (4), (5), (6), 402
(7), (8), (9), (10), (11), (12), or (14) of this section, as 403
appropriate. If the request was made under section 3701.881 of the 404
Revised Code with regard to an applicant who may be both 405
responsible for the care, custody, or control of a child and 406

involved in providing direct care to an older adult, the 407
superintendent shall provide a list of the offenses specified in 408
divisions (A)(4) and (6) of this section. 409

Not later than thirty days after the superintendent receives 410
a request for a criminal records check pursuant to section 113.041 411
of the Revised Code, the completed form, and the fingerprint 412
impressions, the superintendent shall send the treasurer of state 413
any information, other than information the dissemination of which 414
is prohibited by federal law, the superintendent determines exist 415
with respect to the person who is the subject of the request that 416
indicates that the person previously has been convicted of or 417
pleaded guilty to any criminal offense in this state or any other 418
state. 419

(B) The superintendent shall conduct any criminal records 420
check requested under section 113.041, 121.08, 173.27, 173.394, 421
1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 1323.23, 422
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 423
3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 4717.061, 424
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 425
4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 426
4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 427
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 428
4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 429
5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 5126.281, or 430
5153.111 of the Revised Code as follows: 431

(1) The superintendent shall review or cause to be reviewed 432
any relevant information gathered and compiled by the bureau under 433
division (A) of section 109.57 of the Revised Code that relates to 434
the person who is the subject of the request, including, if the 435
criminal records check was requested under section 113.041, 436
121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 437
1321.37, 1322.03, 1322.031, 1323.23, 1733.47, 1761.26, 2151.86, 438

3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 439
4749.03, 4749.06, 4763.05, 5104.012, 5104.013, 5111.032, 5111.033, 440
5111.034, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 441
Code, any relevant information contained in records that have been 442
sealed under section 2953.32 of the Revised Code; 443
444

(2) If the request received by the superintendent asks for 445
information from the federal bureau of investigation, the 446
superintendent shall request from the federal bureau of 447
investigation any information it has with respect to the person 448
who is the subject of the request, including fingerprint-based 449
checks of national crime information databases as described in 42 450
U.S.C. 671 if the request is made pursuant to section 2151.86, 451
5104.012, or 5104.013 of the Revised Code or if any other Revised 452
Code section requires fingerprint-based checks of that nature, and 453
shall review or cause to be reviewed any information the 454
superintendent receives from that bureau. 455

(3) The superintendent or the superintendent's designee may 456
request criminal history records from other states or the federal 457
government pursuant to the national crime prevention and privacy 458
compact set forth in section 109.571 of the Revised Code. 459

(C)(1) The superintendent shall prescribe a form to obtain 460
the information necessary to conduct a criminal records check from 461
any person for whom a criminal records check is requested under 462
section 113.041 of the Revised Code or required by section 121.08, 463
173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 464
1322.031, 1323.23, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 465
3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 466
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 467
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 468
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 469
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 470

4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 471
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 472
5126.281, or 5153.111 of the Revised Code. The form that the 473
superintendent prescribes pursuant to this division may be in a 474
tangible format, in an electronic format, or in both tangible and 475
electronic formats. 476

(2) The superintendent shall prescribe standard impression 477
sheets to obtain the fingerprint impressions of any person for 478
whom a criminal records check is requested under section 113.041 479
of the Revised Code or required by section 121.08, 173.27, 480
173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1322.03, 1322.031, 481
1323.23, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 482
3701.881, 3712.09, 3721.121, 3722.151, 4701.08, 4715.101, 483
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 484
4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 485
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 486
4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 487
4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 488
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 489
5126.281, or 5153.111 of the Revised Code. Any person for whom a 490
records check is requested under or required by any of those 491
sections shall obtain the fingerprint impressions at a county 492
sheriff's office, municipal police department, or any other entity 493
with the ability to make fingerprint impressions on the standard 494
impression sheets prescribed by the superintendent. The office, 495
department, or entity may charge the person a reasonable fee for 496
making the impressions. The standard impression sheets the 497
superintendent prescribes pursuant to this division may be in a 498
tangible format, in an electronic format, or in both tangible and 499
electronic formats. 500

(3) Subject to division (D) of this section, the 501
superintendent shall prescribe and charge a reasonable fee for 502

providing a criminal records check requested under section 503
113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05, 504
1315.141, 1322.03, 1322.031, 1323.23, 1733.47, 1761.26, 2151.86, 505
3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 506
4701.08, 4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 507
4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 508
4731.281, 4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 509
4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 510
4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 511
5104.013, 5111.032, 5111.033, 5111.034, 5123.081, 5126.28, 512
5126.281, or 5153.111 of the Revised Code. The person making a 513
criminal records request under any of those sections shall pay the 514
fee prescribed pursuant to this division. A person making a 515
request under section 3701.881 of the Revised Code for a criminal 516
records check for an applicant who may be both responsible for the 517
care, custody, or control of a child and involved in providing 518
direct care to an older adult shall pay one fee for the request. 519
In the case of a request under section 1121.23, 1155.03, 1163.05, 520
1315.141, 1733.47, 1761.26, or 5111.032 of the Revised Code, the 521
fee shall be paid in the manner specified in that section. 522

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(4) The superintendent of the bureau of criminal 524
identification and investigation may prescribe methods of 525
forwarding fingerprint impressions and information necessary to 526
conduct a criminal records check, which methods shall include, but 527
not be limited to, an electronic method. 528

(D) A determination whether any information exists that 529
indicates that a person previously has been convicted of or 530
pleaded guilty to any offense listed or described in division 531
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 532
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 533
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), or (A)(14) of this 534

section, or that indicates that a person previously has been 535
convicted of or pleaded guilty to any criminal offense in this 536
state or any other state regarding a criminal records check of a 537
type described in division (A)(13) of this section, and that is 538
made by the superintendent with respect to information considered 539
in a criminal records check in accordance with this section is 540
valid for the person who is the subject of the criminal records 541
check for a period of one year from the date upon which the 542
superintendent makes the determination. During the period in which 543
the determination in regard to a person is valid, if another 544
request under this section is made for a criminal records check 545
for that person, the superintendent shall provide the information 546
that is the basis for the superintendent's initial determination 547
at a lower fee than the fee prescribed for the initial criminal 548
records check. 549

(E) As used in this section: 550

(1) "Criminal records check" means any criminal records check 551
conducted by the superintendent of the bureau of criminal 552
identification and investigation in accordance with division (B) 553
of this section. 554

(2) "Minor drug possession offense" has the same meaning as 555
in section 2925.01 of the Revised Code. 556

(3) "Older adult" means a person age sixty or older. 557

(4) "OVI or OVUAC violation" means a violation of section 558
4511.19 of the Revised Code or a violation of an existing or 559
former law of this state, any other state, or the United States 560
that is substantially equivalent to section 4511.19 of the Revised 561
Code. 562

Sec. 1321.52. (A)(1) No person, on that person's own behalf 563
or on behalf of any other person, ~~shall do either of the following~~ 564

without having first obtained a certificate of registration from 565
the division of financial institutions+ 566

~~(a) Advertise, shall advertise,~~ solicit, or hold out that the 567
person is engaged in the business of making loans secured by a 568
mortgage on a borrower's real estate which is other than a first 569
lien on the real estate+ 570

~~(b) Engage in the business of lending or collecting the 571
person's own or another person's money, credit, or choses in 572
action for such loans. 573~~

(2) Each person issued a certificate of registration is 574
subject to all the rules prescribed under sections 1321.51 to 575
1321.60 of the Revised Code. 576

(B) ~~All loans (1) Except as otherwise provided in division 577
(B)(2) of this section, any loan~~ made to ~~persons~~ a person who at 578
the time ~~are residents~~ of the loan is a resident of this state ~~are~~ 579
is considered as made within this state and subject to the laws of 580
this state, regardless of any statement in the contract or note to 581
the contrary. 582

(2) If a loan is primarily secured by a lien on real property 583
in another state and that loan is arranged by a mortgage loan 584
originator licensed by another state, the borrower may designate 585
the transaction be governed by the law where the real property is 586
located if the other state has consumer protection laws covering 587
the borrower that are applicable to the transaction. 588

(C) A registrant may make unsecured loans, loans secured by a 589
mortgage on a borrower's real estate which is a first lien or 590
other than a first lien on the real estate, loans secured by other 591
than real estate, and loans secured by any combination of 592
mortgages and security interests, on terms and conditions provided 593
by sections 1321.51 to 1321.60 of the Revised Code. 594

(D)(1) If a lender that is subject to sections 1321.51 to 595

1321.60 of the Revised Code makes a loan in violation of division 596
(A)(1) of this section, the lender has no right to collect, 597
receive, or retain any interest or charges on that loan. 598

(2) If a registrant applies to the division for a renewal of 599
the registrant's certificate after the date required by division 600
(A)(4) of section 1321.53 of the Revised Code, but prior to the 601
first day of August of that year, and the division approves the 602
application, division (D)(1) of this section does not apply with 603
respect to any loan made by the registrant while the registrant's 604
certificate was expired. 605

Sec. 1323.01. (A) As used in this chapter: 606

(1) "Mortgage servicer" or "servicer" means a person who 607
engages directly or indirectly, whether for compensation, gain for 608
another, or on the person's own behalf, in the business of 609
receiving scheduled periodic payments from a borrower pursuant to 610
the terms of a residential mortgage loan, including amounts 611
received for deposit in an escrow account, and applying those 612
payments received toward principal, interest, and other 613
obligations of the borrower including amounts to be paid from an 614
escrow account. 615

"Mortgage servicer" includes a person who makes or holds a 616
loan if that person also services the loan. 617

"Mortgage servicer" does not include any of the following: 618

(a) The federal deposit insurance corporation or the 619
resolution trust corporation, in connection with assets acquired, 620
assigned, sold, or transferred pursuant to the "Federal Deposit 621
Insurance Corporation Act," 64 Stat. 873 (1950), 12 U.S.C. 622
1823(c), or as receiver or conservator of an insured depository 623
institution; 624

(b) The government national mortgage association, the federal 625

national mortgage association, the federal home loan mortgage corporation, the resolution trust corporation, or the federal deposit insurance corporation, in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by: 626
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(i) Termination of the contract for servicing the loan for cause; 631
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(ii) Commencement of proceedings for bankruptcy of the servicer; 633
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(iii) 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. 635
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(2) "Mortgage lender" means a person engaged in the business of making residential mortgage loans for compensation or gain. 639
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(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. 641
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(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. 646
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(5) "Operations manager" means the employee or owner responsible for the everyday operations, compliance requirements, and management of a registrant or applicant. 653
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(6) "Subprime loan" or "subprime mortgage" means a home loan originated between January 1, 2001, and January 1, 2009, in which the difference between the annual percentage rate for the loan and the average prime offer 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 secondary mortgage loan. For the purposes of this definition, "average prime offer rate" has the meaning as provided in 12 C.F.R. 226.35.

(B) Sections 1323.01 to 1323.11 of the Revised Code shall be known as the "special program to reduce foreclosures act."

(C) The deputy superintendent for consumer finance, when authorized by the superintendent of financial institutions of the department of commerce, may act in place of the superintendent with respect to any duty or authority of the superintendent under this chapter.

Sec. 1323.02. (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 superintendent of financial institutions in the department of commerce prescribes and shall include all of the following:

(1) An itemization of all past due amounts causing the loan to be in default;

(2) An itemization of any other charges that the borrower must pay in order to be current on loan payments;

(3) A statement that the borrower may have options available

other than foreclosure, and that the borrower may discuss 686
available options with the mortgage lender, the mortgage servicer, 687
or a counselor approved by the United States department of housing 688
and urban development; 689

(4) The address, telephone number, and other contact 690
information for the mortgage lender, the mortgage servicer, or an 691
agent for either of them who is authorized to work with the 692
borrower to avoid foreclosure; 693

(5) The name, address, telephone number, and other contact 694
information for one or more United States department of housing 695
and urban development-approved counseling agencies operating to 696
assist borrowers in Ohio to avoid foreclosure; 697

(6) The address, telephone number, and other contact 698
information for the consumer complaint sections of the division of 699
financial institutions of the Ohio department of commerce and the 700
Ohio attorney general; 701

(7) The following information prominently displayed: 702

(8) Other information the director considers necessary and 703
includes on the form. 704

"YOU HAVE THE RIGHT TO REMAIN IN THIS PROPERTY DURING THE 705
FORECLOSURE PROCEEDINGS AND AFTER THE SHERIFF'S SALE UNTIL A COURT 706
CONFIRMS THE SALE. 707

ADDRESS OF PROPERTY:" 708

(B) The notice this section requires shall be mailed to the 709
last known address of the borrower and shall be evidenced by a 710
certificate of mailing from the United States postal service. 711

Sec. 1323.04. (A) Within three business days after mailing 712
the notice section 1323.02 of the Revised Code requires, a 713
mortgage servicer shall file with the administrative director of 714
the Ohio supreme court the date the notice was mailed to the 715

borrower and, unless prohibited by state or federal law, any 716
additional information the administrative director requests. 717

(B) Within seven days after entering into a modification 718
agreement, a mortgage servicer shall notify the administrative 719
director of the nature and terms of an agreement with a borrower 720
to do any of the following: 721

(1) Reduce or forego any fees or arrearages, including 722
acceptance of a deed in lieu of foreclosure; 723

(2) Alter the terms of the residential mortgage loan 724
agreement by a reduction in interest rate, lessening of monthly 725
payment, increase in the term for repayment, deferment of interest 726
or other payment, or alteration of a variable rate adjustment 727
date; 728

(3) Refinance the loan under new terms. 729

(C) Any notice or filing this section requires shall be made 730
in an electronic format as the administrative director prescribes, 731
and contain the name and address of the borrower, the name and 732
address of the mortgage servicer, and the name and address of the 733
holder of the mortgage. 734

(D) The administrative director shall include all information 735
received pursuant to this section in the information database 736
developed and maintained pursuant to section 1323.07 of the 737
Revised Code. This information shall be available for review by 738
the state foreclosure prevention project as described in section 739
1323.06 of the Revised Code. 740

Sec. 1323.05. (A) The superintendent of financial 741
institutions of the department of commerce shall adopt 742
comprehensive minimum loan modification standards by rule. The 743
standards shall be designed to keep a borrower whose principal 744
residence is in Ohio, in the borrower's home when the anticipated 745

recovery under a loan modification or workout plan is greater than 746
the anticipated recovery through foreclosure, on a net present 747
value basis. 748

(B) The loan modification standards adopted pursuant to this 749
section shall include some combination of the following features: 750
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(1) An interest rate reduction, as needed, for a fixed term 752
of at least five years; 753

(2) An extension of the amortization period for the loan 754
term, to not more than forty years from the original date of the 755
loan; 756

(3) Deferral of some portion of the principal amount of the 757
unpaid principal balance until maturity of the loan; 758

(4) Reduction of principal; 759

(5) Compliance with a federally mandated loan modification 760
program; 761

(6) Other factors the superintendent determines are 762
appropriate, which may include efforts implemented in other states 763
that have resulted in a reduction in foreclosures. 764

Sec. 1323.06. The director of commerce shall establish the 765
"state foreclosure prevention project" to collect residential 766
mortgage foreclosure information, track loss mitigation efforts, 767
encourage viable loan modifications, and seek solutions to avoid 768
foreclosures for residential mortgage loans. In developing the 769
project, the director may include input from the United States 770
department of housing and urban development-approved housing 771
counselors, community organizations, state agencies including the 772
Ohio attorney general, mortgage lenders, mortgage servicers, and 773
any other appropriate persons. 774

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. 775
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(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. 782
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(C) Any information provided for inclusion in the foreclosure prevention 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. 789
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(D) Providing information as this chapter requires for inclusion in the prevention 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. 797
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Sec. 1323.08. (A) The director of commerce annually shall submit a report to the general assembly describing the operation 803
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of the state foreclosure prevention project until the funds 805
specifically appropriated to operate the project are completely 806
disbursed. The director shall present information in the report in 807
aggregate form, and may include the number of borrowers helped, 808
the effectiveness of the funds in preventing foreclosure, 809
recommendations for further efforts needed to reduce foreclosures, 810
and any other aggregated information the director determines is 811
pertinent or that the general assembly requests. 812

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(B) In preparing the report, the director shall review 814
information provided in the foreclosure prevention database to 815
determine all of the following: 816

(1) Whether the loss mitigation programs and efforts 817
effectively address loan default issues; 818

(2) The most effective means for establishing successful 819
foreclosure alternatives including loan modification programs; 820

(3) Which procedures best comport with a servicer's 821
obligation to investors to lessen losses resulting from borrower 822
defaults. 823

Sec. 1323.09. The superintendent of financial institutions in 824
the department of commerce shall review the information in the 825
mortgage foreclosure database to determine whether any mortgage 826
servicer has failed to provide disclosures or information this 827
chapter requires or is not acting in good faith to provide 828
borrowers with an effective method to discuss payment options for 829
past due amounts and alternatives to foreclosure. If the 830
superintendent determines that a mortgage servicer has violated 831
any of these requirements, the superintendent may consider that 832
conduct or failure when determining the character and general 833
fitness of the mortgage servicer for its licensure or certificate 834

of registration as a mortgage servicer under this chapter or 835
Chapter 1321. of the Revised Code. 836

Sec. 1323.10. (A) There is hereby established in the state 837
treasury the foreclosure prevention revolving trust fund, 838
comprised of moneys collected or accruing to the trust fund, for 839
the purpose of providing the following: 840

(1) Grants to counseling foreclosure prevention entities for 841
the purpose of maintaining or expanding foreclosure prevention 842
counseling and related services and activities to assist 843
homeowners to prevent foreclosure; 844

(2) Grants to individuals or counseling entities for the 845
purpose of providing emergency foreclosure prevention assistance 846
loans; 847

(3) Loans and grants to nonprofit or local government 848
entities to provide relocation assistance or acquire mortgage 849
loans or properties from creditors in order to restructure the 850
mortgage loans or restore the properties to productive use; 851

(4) Funding to establish, operate, and maintain the state 852
foreclosure database established pursuant to section 1323.07 of 853
the Revised Code; 854

(5) Funding for the expenses of the state foreclosure 855
prevention project and the associated regulatory costs the 856
superintendent of financial institutions of the department of 857
commerce and the director of commerce incur in administering this 858
chapter and sections 1321.51 to 1321.60 and 1322.01 to 1322.12 of 859
the Revised Code. 860

(B) Each fiscal quarter the director of commerce shall 861
distribute the amounts in the foreclosure prevention revolving 862
trust fund as follows: ten per cent for administrative costs to 863
the consumer finance fund in the state treasury, created under 864

section 1321.21 of the Revised Code, up to five per cent to the 865
office of the administrative director of the supreme court, and 866
the balance to be divided between the department of development 867
for deposit into the Ohio housing trust fund and boards of county 868
commissioners. The amount awarded to boards of county 869
commissioners shall be distributed on a pro rata basis of the 870
funds submitted with respect to foreclosure filings in each county 871
under section 1323.11 of the Revised Code. 872

(C) The director of development and boards of county 873
commissioners shall establish rules governing the procedures to 874
qualify counseling and foreclosure prevention entities, nonprofit 875
entities, and individuals for loan assistance to receive moneys 876
from the revolving trust fund to carry out the purposes of 877
division (A) of this section. 878

(D) Any moneys collected under this section but not allocated 879
by the end of the fiscal year shall be available for allocation in 880
the subsequent fiscal year. 881

Sec. 1323.11. (A) In addition to any filing fee required by 882
law, a creditor that files a complaint to initiate a foreclosure 883
action involving a residential mortgage loan simultaneously shall 884
transmit a certified check in the amount of one thousand five 885
hundred dollars payable to the department of commerce for deposit 886
into the trust fund established under section 1323.10 of the 887
Revised Code. The creditor may not in any manner add the amount 888
paid pursuant to this division to the amount the borrower owes the 889
creditor or seek to recover this cost from the borrower. 890

(B) No court shall permit the filing of an action for a 891
mortgage foreclosure or grant a judgment of foreclosure to any 892
creditor of a residential loan unless that creditor provides 893
evidence to the court that the creditor has complied with this 894
section. 895

(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. 896
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(D) The fee this section requires shall not be charged with respect to a filing for a foreclosure action that is made for an unoccupied property. 901
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Sec. 1323.20. (A) Sections 1323.20 to 1323.37 of the Revised Code shall be known as the "residential mortgage servicers registration act." 904
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(B) Sections 1323.20 to 1323.37 of the Revised Code do not apply to any of the following: 907
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(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; 909
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(2) Life, property, or casualty insurance companies licensed to do business in this state; 913
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(3) Any attorney or law firm acting on behalf of any mortgage note holder or mortgage servicer when acting in connection with the practice of law in this state, except as otherwise provided in division (D) of this section. 915
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(4) Any political subdivision, or any governmental or other public agency, corporation, or instrumentality in or of the United States or any state; 919
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(5) An institution of higher education as defined in section 1713.01 of the Revised Code; 922
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(6) A debt collector acting under the name of, and as agent for, a mortgage servicer registrant to collect a debt in default. 924
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(C) Mortgage lenders registered under section 1321.52 of the Revised Code and mortgage brokers registered under section 1322.02 of the Revised Code are exempt from the registration requirements of section 1323.21 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.

(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 the provisions of sections 1323.20 to 1323.37 of the Revised Code. Any violation 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.

Sec. 1323.21. (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:

(1) Engage in the business of collecting money, credit, or choses in action for residential mortgage loans or otherwise act as a mortgage servicer;

(2) Collect accelerated mortgage payments from a biweekly or

other accelerated payment plan that the person operates, arranges, 957
or offers to arrange in connection with a residential mortgage 958
loan. 959

(B) Any person who acts in willful violation of division (A) 960
of this section, after receiving written notice of the violation 961
from the superintendent or a court, may not collect any amounts as 962
interest or charges on that loan. Any amounts collected shall be 963
credited as a principal reduction to the loan. 964

(C)(1) When a registration expires for any reason and the 965
former registrant continues to service residential mortgage loans 966
in violation of division (A) of this section, the superintendent 967
may take administrative action, including action on any subsequent 968
application for a certificate of registration. 969

(2) A servicer with an expired registration may not collect, 970
charge, or retain any late fee, bad check charge except as 971
incurred, charge related to default, cost to realize on its 972
security interest, or prepayment penalty on any residential 973
mortgage loan unless that servicer applies to the superintendent 974
for a registration renewal and a certificate of registration prior 975
to the first day of August of the year the registration expires 976
and the superintendent approves that application. 977

(D) No person shall conduct the business of a mortgage 978
servicer in association with any exempt business if the 979
superintendent has ordered that exempt business, in writing, to 980
desist from conduct that the superintendent found to be a mere 981
conduit for the mortgage servicer and that the association of the 982
servicer and the exempt business is intended to conceal an evasion 983
of sections 1323.20 to 1323.37 of the Revised Code or the rules 984
adopted pursuant to those sections. Any determination made 985
pursuant to this division shall be made in accordance with Chapter 986
119. of the Revised Code. 987

Sec. 1323.22. (A) Any application for registration as a mortgage servicer shall be in writing, under oath, and in the form the superintendent of financial institutions of the department of commerce prescribes. It shall contain an undertaking by the applicant to abide by this chapter and any other information that the superintendent requires. Applicants that are foreign corporations shall obtain and maintain a license pursuant to Chapter 1703. of the Revised Code before seeking registration or registration renewal as a mortgage servicer.

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

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

(D) The superintendent may consider an application for registration as a mortgage servicer withdrawn if that application does not contain all of the information required under division (A) of this section and the applicant does not submit that

information within ninety days after the superintendent requests 1019
the information in writing. 1020

(E) The superintendent of financial institutions shall 1021
deposit any licensing fee, charge, or fine received pursuant to 1022
sections 1323.20 to 1323.37 of the Revised Code into the consumer 1023
finance fund in the state treasury, created under section 1321.21 1024
of the Revised Code, unless otherwise specified by law. 1025

Sec. 1323.23. (A) Any investigation the superintendent of 1026
financial institutions of the department of commerce undertakes 1027
with respect to an application for registration as a mortgage 1028
servicer shall include a civil records check and criminal records 1029
check at the time of the initial application and every five years 1030
thereafter, or upon a change of control of the registrant if the 1031
persons acquiring control have not had a criminal records check 1032
submitted to the superintendent within the past five years. Where 1033
the applicant is a business entity, the superintendent may require 1034
a criminal background check of those persons that the 1035
superintendent determines have the authority to direct and control 1036
the operations of the applicant. 1037

(B) When conducting a criminal background check, the 1038
superintendent shall request the superintendent of the bureau of 1039
criminal identification and investigation to conduct a criminal 1040
records check based on the applicant's fingerprints or if 1041
fingerprints are unreadable, based on the applicant's social 1042
security number. Notwithstanding division (K) of section 121.08 of 1043
the Revised Code, the superintendent of financial institutions 1044
shall request that criminal record information from the federal 1045
bureau of investigation be obtained as part of the criminal 1046
records check. 1047

(C) The applicant shall pay any fee required under division 1048
(C)(3) of section 109.572 of the Revised Code. 1049

(D) The superintendent shall conduct the civil records checks 1050
this section requires pursuant to procedures the superintendent 1051
adopts by rule. 1052

Sec. 1323.24. (A) The superintendent of financial 1053
institutions of the department of commerce shall issue a 1054
certificate of registration as a mortgage servicer to an applicant 1055
if the superintendent finds that the applicant's financial 1056
responsibility, experience, character, and general fitness command 1057
the confidence of the public and warrant the belief that the 1058
business will be operated honestly and fairly in compliance with 1059
the purposes of this chapter and the rules promulgated under it, 1060
and that the applicant has the requisite bond or applicable net 1061
worth as this chapter requires. 1062

(B) Upon finding an applicant does not meet the conditions 1063
set forth in this chapter, the superintendent shall issue a notice 1064
of intent to deny an application for registration or renewal. The 1065
superintendent forthwith shall notify the applicant of the denial, 1066
the grounds for the denial, and the applicant's opportunity to be 1067
heard on the action in accordance with Chapter 119. of the Revised 1068
Code. 1069

(C) Any certificate issued pursuant to this section shall 1070
expire on the first day of July next after its issue, and on the 1071
first day of July in each succeeding year unless renewed by filing 1072
a renewal application and payment of an annual fee and any 1073
additional fee required by law, on or before the last day of June 1074
of each year. 1075

Sec. 1323.25. (A) To renew a registration as a mortgage 1076
servicer, a registrant shall timely file a renewal application on 1077
a form the superintendent of financial institutions of the 1078
department of commerce prescribes, along with any additional 1079

information that the superintendent requires. 1080

(B) As a condition of renewal, a registrant must provide 1081
proof that the designated operation manager meets the criteria for 1082
initial approval set forth in section 1323.23 of the Revised Code 1083
and that the mortgage servicer meets the minimum standards for the 1084
issuance of the certificate of registration under sections 1323.22 1085
to 1323.24 of the Revised Code. 1086

(C) The superintendent shall not grant any renewal if the 1087
applicant's certificate of registration is subject to an order of 1088
suspension, revocation, or an unpaid and past due fine the 1089
superintendent has imposed. 1090

(D) If an application for renewal of a certificate of 1091
registration does not contain all the information this section 1092
requires, and if the registrant does not submit that information 1093
to the superintendent within ninety days after the superintendent 1094
requests the information in writing, the superintendent may 1095
consider the application withdrawn. 1096

Sec. 1323.26. At any time there is a change of five per cent 1097
or more in the ownership of a registrant, the superintendent of 1098
financial institutions of the department of commerce may make any 1099
investigation necessary to determine whether any fact or condition 1100
presently exists that would have warranted the superintendent 1101
denying the original application had the fact or condition existed 1102
at the time of that application. If the superintendent finds such 1103
a fact or condition, the superintendent may revoke the 1104
registrant's registration and certificate pursuant to Chapter 119. 1105
of the Revised Code. 1106

Sec. 1323.27. (A) Each place of business to which borrowers 1107
are regularly directed to remit payment shall display its own 1108
certificate of registration. The superintendent of financial 1109

institutions of the department of commerce may issue additional 1110
certificates of registration to the same person for additional 1111
places of business upon compliance with the requirements governing 1112
the issuance of a single certificate. 1113

(B)(1) Any change in the place of business to a location 1114
outside the original municipal corporation requires a new 1115
certificate of registration. A registrant who makes such a change 1116
of location shall submit a new application, pay the registration 1117
fee and, if the superintendent requires, pay an investigation fee 1118
of two hundred dollars. The registrant must have the new 1119
certificate before operating in the new location. 1120

(2) A registrant who wishes to change its place of business 1121
within the same municipal corporation shall give written notice of 1122
the change in advance to the superintendent, who shall provide a 1123
certificate for the new address without cost. 1124

(C) A registrant that changes its name shall give written 1125
notice of the change to the superintendent prior to acting as a 1126
mortgage servicer under the new name. The superintendent shall 1127
provide a certificate in the new name without cost. 1128

(D) A registrant shall keep each certificate conspicuously 1129
posted in each place of business. A certificate of registration is 1130
not transferable or assignable. 1131

Sec. 1323.28. (A) Any person who acts as a mortgage servicer, 1132
if not bonded pursuant to division (B) of this section, shall 1133
maintain at all times both of the following: 1134

(1) A net worth of at least two hundred fifty thousand 1135
dollars; 1136

(2) For each additional certificate of registration beyond 1137
the first, assets of at least fifty thousand dollars either in use 1138
or readily available for use in the conduct of the business. 1139

(B) Any person acting as a mortgage servicer by arranging biweekly or other accelerated payment plans and collecting those payments shall obtain and maintain in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The servicer shall file a copy of the bond with the superintendent of financial institutions of the department of commerce. The bond shall meet all of the following conditions: 1140
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(1) Be in favor of the superintendent; 1148

(2) Have a base penal sum of two hundred fifty thousand dollars for the first location and an additional penal sum of ten thousand dollars for each additional location that requires a separate certificate of registration; 1149
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1152

(3) Have a term that coincides with the term of registration; 1153
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(4) Be for the exclusive benefit of any individual borrower injured by any violation of sections 1323.20 to 1323.37 of the Revised Code or the rules promulgated thereunder by a servicer, its employees, or agent; 1155
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1158

(5) Have an aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond. 1159
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1161

(C)(1) A mortgage servicer shall give notice to the superintendent by certified mail of any action that is brought by a borrower brings against the servicer alleging injury by a violation of sections 1323.20 to 1323.37 of the Revised Code and of any judgment that is entered against the servicer by a borrower injured by a violation of those sections. The notice shall provide details sufficient to identify the action or judgment. The servicer shall file the notice with the superintendent within ten days after the commencement of the action or receipt of the notice 1162
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of entry of a judgment. 1171

(2) A corporate surety shall give notice of any payment to 1172
the superintendent by certified mail within ten days after it pays 1173
any claim or judgment, with details sufficient to identify the 1174
person and the claim or judgment paid. 1175

(D) Whenever the penal sum of the corporate surety bond is 1176
reduced by one or more recoveries or payments, a servicer shall 1177
furnish a new or additional bond under this section, so that the 1178
total or aggregate penal sum of the bond or bonds equals the sum 1179
required by this section, or shall furnish an endorsement executed 1180
by the corporate surety reinstating the bond to the required penal 1181
sum set forth in division (B) of this section. 1182

(E) The liability of the corporate surety on the bond to the 1183
superintendent and to any borrower injured by a violation of 1184
sections 1323.20 to 1323.37 of the Revised Code is not affected in 1185
any way by any misrepresentation, breach of warranty, or failure 1186
to pay the premium, by any act or omission upon the part of the 1187
servicer, by the insolvency or bankruptcy of the servicer, or by 1188
the insolvency of the servicer's estate. The servicer shall 1189
maintain in effect liability for any act or omission that occurs 1190
during the term of the corporate surety bond for at least two 1191
years after the date on which the corporate surety bond is 1192
terminated or canceled. 1193

(F) Neither the servicer nor the corporate surety shall 1194
cancel a corporate surety bond except upon notice to the 1195
superintendent by certified mail, return receipt requested. A 1196
cancellation is not effective until thirty days after the 1197
superintendent receives the notice. 1198

(G) No servicer shall fail to comply with this section. Any 1199
servicer that fails to comply shall cease acting as a mortgage 1200
servicer in this state until that servicer complies with this 1201

section. 1202

Sec. 1323.29. (A) The superintendent of financial 1203
institutions of the department of commerce may adopt, in 1204
accordance with Chapter 119. of the Revised Code, rules to 1205
administer and enforce this chapter and to carry out its purposes. 1206

(B)(1) After written notice to the registrant stating the 1207
contemplated action, the grounds for the action, and the 1208
registrant's opportunity to be heard in accordance with Chapter 1209
119. of the Revised Code, the superintendent may revoke, suspend, 1210
or refuse to renew any registration and certificate issued under 1211
this chapter if the superintendent finds any of the following: 1212

(a) A violation of or failure to comply with any provision of 1213
sections 1323.20 to 1323.37 of the Revised Code or the rules 1214
adopted under those sections, under Chapter 1345. of the Revised 1215
Code, federal debt collection laws, or any other law applicable to 1216
the business conducted under the registrant's certificate of 1217
registration; 1218

(b) The registrant has been convicted of or pleads guilty or 1219
nolo contendere in a domestic, foreign, or military court to any 1220
criminal felony offense or any criminal offense involving theft, 1221
receiving stolen property, embezzlement, forgery, fraud, passing 1222
bad checks, money laundering, breach of trust, dishonesty, or drug 1223
trafficking, or any criminal offense involving money or 1224
securities; 1225

(c) The registrant's certificate of registration, license, or 1226
comparable authority as a mortgage servicer has been revoked in 1227
any other state. 1228

(2) The superintendent may impose a monetary fine in addition 1229
to, or in lieu of, any revocation, suspension, or denial or in 1230
settlement of matters subject to claims under division (B)(1)(a) 1231

of this section. 1232

(3) Except as otherwise provided in section 1323.21 of the 1233
Revised Code, the revocation, suspension, or refusal to renew a 1234
registration does not impair the obligation of any pre-existing 1235
lawful contract made under this chapter if a mortgage servicer 1236
makes a good faith effort to promptly transfer its collection 1237
rights to a registrant or person exempt from registration. A 1238
servicer that does not make the requisite good faith effort is 1239
subject to additional monetary fines and legal or administrative 1240
action by the superintendent. Nothing in this section limits a 1241
court's ability to impose a cease and desist order preventing any 1242
further business or servicing activity. 1243

(C)(1) The superintendent may investigate alleged violations 1244
of sections 1323.20 to 1323.37 of the Revised Code or the rules 1245
adopted thereunder, or complaints concerning any such violation. 1246
The superintendent may apply to the court of common pleas for an 1247
order enjoining any violation. Upon a showing that a person has 1248
committed or is about to commit a violation, the court shall grant 1249
an injunction, restraining order, or other appropriate relief. 1250

(2) In conducting an investigation, the superintendent, by 1252
subpoena, may compel witnesses to testify in relation to any 1253
matter over which the superintendent has jurisdiction, and may 1254
require the production or photocopying of any book, record, or 1255
other document pertaining to such matter. If a person fails to 1256
comply with the subpoena, or permit photocopying of any document 1257
subpoenaed, a court of common pleas, upon the superintendent's 1258
application, shall compel obedience by attachment proceedings for 1259
contempt or a refusal to testify. 1260

(D) If the superintendent determines that a person is engaged 1261
in or may be engaged in activities that violate sections 1323.20 1262
to 1323.37 of the Revised Code or the rules adopted thereunder, 1263

the superintendent, after notice and a hearing conducted in 1264
accordance with Chapter 119. of the Revised Code, may issue a 1265
cease and desist order. 1266

(E)(1) The superintendent may impose a fine of not more than 1267
one thousand dollars for each day a violation of this chapter or 1268
the rules adopted under it is committed, repeated, or continued. 1269
All fines collected pursuant to this section shall be paid to the 1270
treasurer of state to the credit of the consumer finance fund 1271
created in section 1321.21 of the Revised Code. In determining the 1272
amount of a fine to be impose, the superintendent may consider all 1273
of the following: 1274

(a) The seriousness of the violation; 1275

(b) The servicer's good faith efforts to prevent the 1276
violation; 1277

(c) The servicer's history regarding violations and 1278
compliance with the superintendent's orders; 1279

(d) The servicer's financial resources; 1280

(e) Any other matters the superintendent considers 1281
appropriate in enforcing this chapter. 1282

(2) Monetary fines imposed under this section do not preclude 1283
any criminal fine described in section 1323.99 of the Revised 1284
Code. 1285

Sec. 1323.30. (A)(1) A mortgage servicer shall keep separate 1286
records pertaining to each loan serviced and preserve those 1287
records for so long as the servicer has responsibility for the 1288
loan. At any time responsibility for the loan is transferred to 1289
another servicer, the servicer who is ceasing responsibility shall 1290
transfer all original loan documents and records to the servicer 1291
who is assuming responsibility for the loan. Any system of 1292
electronic imaging of required records shall be approved by the 1293

superintendent of financial institutions of the department of 1294
commerce prior to its use but at no time shall such a system be a 1295
substitute for maintaining original documents as this section 1296
requires. 1297

(2) As often as necessary, the superintendent may make or 1298
cause to be made an examination of records pertaining to loans 1299
serviced for the purpose of determining whether the servicer is 1300
complying with sections 1323.20 to 1323.37 of the Revised Code and 1301
of verifying any registrant's annual report. 1302

(B)(1) The superintendent may require each servicer to file 1303
each year a report under oath or affirmation, on forms the 1304
superintendent supplies, concerning the business and operations 1305
for the preceding calendar year. A servicer that operates two or 1306
more registered offices or who operates registered offices with 1307
one or more affiliated servicers, may file a composite report of 1308
the group of registered offices in lieu of individual reports. 1309

(2) The reports provided under division (B)(1) of this 1310
section are not public records and are not open to public 1311
inspection. 1312

(C)(1) The following information is confidential: 1313

(a) Examination information, and any information leading to 1314
or arising from an examination; 1315

(b) Investigation information, and any information arising 1316
from or leading to an investigation. 1317

(2) The information described in this division is 1318
confidential for all purposes except when it is necessary for the 1319
superintendent to take official action regarding the affairs of a 1320
servicer or in connection with criminal or civil proceedings to be 1321
initiated by a prosecuting attorney or the attorney general. This 1322
information may be introduced into evidence or disclosed pursuant 1323

to section 1181.25 of the Revised Code. 1324

(D) All application information is a public record as defined 1325
in section 149.43 of the Revised Code, except social security 1326
numbers, employer identification numbers, financial account 1327
numbers, the identity of the institution where financial accounts 1328
are maintained, personal financial information, fingerprint cards 1329
and the information contained on such cards, and criminal 1330
background information. 1331

(E) Nothing in this section prevents the superintendent from 1332
releasing information relating to servicers or exchanging that 1333
information with other financial institution regulatory 1334
authorities. For this purpose, a "financial institution regulatory 1335
authority" includes a regulator of a business activity in which a 1336
servicer is engaged or has applied to engage, to the extent that 1337
the regulator has jurisdiction over a servicer engaged in that 1338
business activity. A servicer is engaged in a business activity, 1339
and a regulator of that business activity has jurisdiction over 1340
the servicer, whether the servicer conducts the activity directly 1341
or a subsidiary or affiliate of the servicer conducts the 1342
activity. 1343

(F) Nothing in this section prevents the superintendent of 1344
financial institutions from releasing information relating to 1345
mortgage servicers to the attorney general, to the superintendent 1346
of real estate and professional licensing of the department of 1347
commerce for purposes relating to the administration of Chapters 1348
4735. and 4763. of the Revised Code, to the superintendent of 1349
insurance for purposes relating to the administration of Chapter 1350
3953. of the Revised Code, to the commissioner of securities of 1351
the department of commerce for purposes relating to the 1352
administration of Chapter 1707. of the Revised Code, or to local 1353
law enforcement agencies and local prosecutors. Information 1354
released pursuant to this section remains confidential. The 1355

superintendent of financial institutions, by rule, may designate 1356
additional state agencies and regulatory authorities as entities 1357
with which to share this confidential information. 1358

Sec. 1323.31. No person, in connection with any examination 1359
or investigation conducted by the superintendent of financial 1360
institutions of the department of commerce under this chapter, 1361
shall knowingly do any of the following: 1362

(A) Circumvent, interfere with, obstruct, or fail to 1363
cooperate, including making a false or misleading statement, 1364
failing to produce records, or intimidating or suborning any 1365
witness; 1366

(B) Withhold, abstract, remove, mutilate, destroy, or secrete 1367
any books, records, computer records, or other information; 1368

(C) Tamper with, alter, or manufacture any evidence. 1369

Sec. 1323.32. (A) No mortgage servicer, through its 1370
operations manager or otherwise, shall fail to reasonably 1371
supervise persons the servicer employs or associates with, or to 1372
establish reasonable procedures to avoid violations of sections 1373
1323.20 to 1323.37 of the Revised Code or the rules adopted 1374
thereunder, violations of applicable state and federal consumer 1375
and lending laws or rules by persons the servicer employs or 1376
associates with. 1377

(B) Within ten business days of any change in a mortgage 1378
servicer's statutory agent designation or address, the servicer 1379
shall file with the superintendent of financial institutions of 1380
the department of commerce evidence that the servicer has filed 1381
such changes with the secretary of state. 1382

(C)(1) At least thirty days prior to the closure of a 1383
registered office location, a mortgage servicer shall notify the 1384
superintendent by filing a notice of closure on a form approved by 1385

the superintendent. The notice shall indicate the custodian of the 1386
records and where the records will be maintained. Within five 1387
business days after the closure, the servicer shall surrender the 1388
certificate of registration issued to that location by returning 1389
it to the superintendent. 1390

(2) The closure of an office and the surrender of a 1391
certificate does not affect a mortgage servicer's civil or 1392
criminal liability for acts committed before the surrender. 1393

(D) A mortgage servicer shall maintain books and records in 1394
compliance with this chapter and make them available to the 1395
superintendent of financial institutions of the department of 1396
commerce. After any closure, records remain subject to examination 1397
and or investigation. The servicer shall send the superintendent 1398
written notice of any change in the location of the records or the 1399
custodian of those records. 1400

Sec. 1323.33. (A) No mortgage servicer shall refuse to 1401
provide information regarding the amount required to pay in full a 1402
residential mortgage loan when the borrower or a person the 1403
borrower designates makes that request in writing. The servicer 1404
shall provide the requested payoff statement without charge one 1405
time during any twelve-month period. If additional payoff 1406
statements are requested, the servicer may charge an amount not in 1407
excess of three dollars for each additional statement. The 1408
servicer shall provide any payoff statement within five business 1409
days of the request. 1410

(B) No mortgage servicer shall obtain a certificate of 1411
registration through any false or fraudulent representation of a 1412
material fact or any omission of a material fact required by state 1413
or federal law, or make any substantial misrepresentation in the 1414
registration application. 1415

(C) No mortgage servicer shall make false or misleading 1416

statements of a material fact, omissions of statements required by 1417
state or federal law, or false promises regarding a material fact, 1418
through advertising or other means, or engage in a continued 1419
course of misrepresentations. 1420

(D) No mortgage servicer shall engage in conduct that 1421
constitutes improper, fraudulent, or dishonest dealings. 1422

(E) No mortgage servicer or applicant for registration shall 1423
fail to notify the superintendent of financial institutions of the 1424
department of commerce within thirty days after the servicer or 1425
applicant has: 1426

(1) Been convicted of or pleads guilty or nolo contendere in 1427
a domestic, foreign, or military court to any criminal felony 1428
offense; 1429

(2) Been convicted of or pleads guilty or nolo contendere in 1430
a domestic, foreign, or military court to any criminal offense 1431
involving theft, receiving stolen property, embezzlement, forgery, 1432
fraud, passing bad checks, money laundering, breach of trust, 1433
dishonesty, or drug trafficking, or any criminal offense involving 1434
money or securities; 1435

(3) Had a mortgage servicer registration, license, or 1436
comparable authority revoked in any other state. 1437

(F) No mortgage servicer shall knowingly make, propose, or 1438
solicit fraudulent, false, or misleading statements on any 1439
mortgage servicing document or on any document related to an 1440
accounting of payments remitted or disbursed. For purposes of this 1441
division, "fraudulent, false, or misleading statements" does not 1442
include mathematical errors, inadvertent transposition of numbers, 1443
typographical errors, or any other bona fide error. 1444

(G) No mortgage servicer shall knowingly instruct, solicit, 1445
propose, or otherwise cause a borrower to sign in blank a 1446
document. 1447

(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. 1448
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Sec. 1323.34. (A) In addition to the duties imposed by common law or state or federal law a mortgage servicer shall do all of the following: 1452
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1454

(1) Act with good faith and fair dealing in any transaction, practice, or course of business associated with servicing; 1455
1456

(2) Act with reasonable skill, care, and diligence; 1457

(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; 1458
1459
1460
1461

(4) Subject to the servicer's duties and obligations under its mortgage servicing contract, attempt a resolution, modification, or workout to the delinquency of a borrower who requests assistance. 1462
1463
1464
1465

(5) Make a good faith effort to correct any erroneous information it has provided to any credit reporting agency; 1466
1467

(6) 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; 1468
1469
1470
1471
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(7) Accept and credit each residential mortgage loan payment received on the date received; 1473
1474

(8) 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 1475
1476
1477

borrower to the same position as if the default had not occurred, 1478
and nullify, as of the date of the cure, any acceleration of any 1479
obligation under the residential mortgage loan or note arising 1480
from the default. 1481

(9) In addition to the duties enumerated in sections 1323.20 1482
to 1323.37 of the Revised Code, any mortgage servicer for a 1483
government-insured loan shall comply with the loss mitigation 1484
standards and guidelines as required by the insuring entity. 1485

(B) When establishing a loan modification solution for a 1486
borrower, a mortgage servicer shall seek to achieve long-term 1487
sustainability for the borrower and adhere to the loan 1488
modification standards established under section 1323.05 of the 1489
Revised Code. 1490

Sec. 1323.35. No mortgage servicer shall do any of the 1491
following in connection with a residential mortgage loan: 1492

(A) Collect, charge, or retain any fee from the borrower 1493
unless the fee is reasonable, for a bona fide service rendered, 1494
and specifically authorized by the residential mortgage loan and 1495
permitted by law; 1496

(B) Initiate a foreclosure action without proof of ownership 1497
as evidenced by a declaration signed under penalty of perjury, 1498
stating that the party in interest has reviewed the original note 1499
and all subsequent assignments and has concluded that the party in 1500
interest owns the note or mortgage; 1501

(C) Fail to provide written notice to the borrower before 1502
acquiring and placing hazard, homeowner's, or flood insurance on a 1503
property or acquiring and placing such insurance if the mortgage 1504
servicer knows, or has reason to know, that a policy for such 1505
insurance is in effect; 1506

(D) Acquire and place hazard, homeowner's, or flood insurance 1507

on a property for an amount that exceeds the greater of the 1508
insurable improvements to the property, the last known coverage 1509
amount that was sufficient to meet the borrower's insurance 1510
obligations, or the unpaid balance owed by the borrower. 1511

(E) Fail to refund unearned premiums for insurance the 1512
mortgage servicer or its agents placed upon the borrower, 1513
providing there is reasonable evidence that the needed coverage 1514
had been obtained, the forced placement is not necessary, and the 1515
property is properly insured in accordance with the loan or note. 1516

Sec. 1323.36. (A) No mortgage servicer shall use unfair, 1517
deceptive or unconscionable means to collect or attempt to collect 1518
any claim in connection with a residential mortgage loan. Without 1519
limiting the general application of the foregoing, the following 1520
actions violate this section: 1521

(1) The collection or the attempt to collect any interest or 1522
other charge, fee, or expense that is incidental to the principal 1523
obligation, unless expressly authorized by the agreement creating 1524
the obligation and by law, including division (A) of section 1525
1323.35 of the Revised Code; 1526

(2) Any communication with a borrower if the mortgage 1527
servicer knows that the borrower is represented by an attorney and 1528
the attorney's name and address are known or could be easily 1529
ascertained. This prohibition does not apply if the borrower's 1530
attorney fails to respond within thirty days to answer 1531
correspondence, return phone calls, or discuss the obligation in 1532
question, or the attorney consents to the servicer having direct 1533
communication with the borrower; 1534

(3) Placing a telephone call or otherwise communicating by 1535
telephone with a borrower or third party, at any place including a 1536
place of employment, and falsely stating that the call is "urgent" 1537
or an "emergency"; 1538

(4) Using profane or obscene language or language that is 1539
intended to unreasonably abuse the listener or reader; 1540

(5) Placing telephone calls without disclosure of the 1541
caller's identity and with the intent to annoy, harass, or 1542
threaten any person at the number called; 1543

(6) Causing expense to any person in the form of long 1544
distance telephone tolls, text messaging fees, or other charges 1545
the servicer causes by concealing the true purpose of the 1546
communication; 1547

(7) Causing a telephone to ring or engaging any person in a 1548
telephone conversation repeatedly or continuously, or at unusual 1549
times or times known to be inconvenient, with the intent to annoy, 1550
abuse, oppress, or threaten any person at the called number. 1551
1552

(B) The requirements set forth in this section are in 1553
addition to any other requirement set forth in federal or state 1554
law regulating the conduct of collection activities, including the 1555
federal fair debt collection practices act, 91 Stat. 874 (1977), 1556
15 U.S.C. sec. 1692 et seq. 1557

Sec. 1323.361. (A) No mortgage servicer, in conducting a 1558
mortgage servicer business, shall engage in any unfair, deceptive 1559
or unconscionable act in violation of Chapter 1345. of the Revised 1560
Code. Any violation of the sections set forth in division (H) of 1561
section 1323.33 or section 1323.34, 1323.35, or 1323.36 of the 1562
Revised Code is an unfair and deceptive act or practice in 1563
violation of section 1345.02 of the Revised Code. The attorney 1564
general may take enforcement action and a borrower may seek 1565
recovery under Chapter 1345. of the Revised Code for the 1566
violations set forth in this division. 1567

(B) A borrower injured by a violation of division (A) of this 1568

section may not recover damages, attorney's fees, and costs under 1569
Chapter 1345. of the Revised Code if the borrower has recovered 1570
damages in a cause of action initiated under section 1323.37 of 1571
the Revised Code and the damages sought under Chapter 1345. of the 1572
Revised Code are based on the same acts or circumstances as the 1573
damages awarded under section 1323.37 of the Revised Code. 1574

Sec. 1323.37. (A) A borrower injured by a violation of 1575
sections 1323.20 to 1323.37 of the Revised Code may recover 1576
damages in an amount not less than all improper charges or fees 1577
paid to the mortgage servicer, plus reasonable attorney's fees and 1578
court costs and also may be awarded punitive damages. 1579

(B) Nothing in this section prevents recovery under division 1580
(A)(2) or (C) of section 1323.21. of the Revised Code. 1581

(C) A borrower may not recover damages, attorney's fees, or 1582
costs under this section if the borrower also recovered damages in 1583
an action initiated under any section of Chapter 1321. or 1345. of 1584
the Revised Code and the damages so awarded were based on the same 1585
acts or circumstances as the damages sought under this section. 1586
1587

Sec. 1323.99. (A) Whoever violates division (A)(1) or (2) of 1588
section 1323.21, or division (F) or (G) of section 1323.33 of the 1589
Revised Code is guilty of a felony of the fifth degree. 1590

(B) Whoever violates section 1323.31 of the Revised Code with 1591
the intent to interfere or obstruct an examination or 1592
investigation is guilty of a felony of the fourth degree. 1593

Sec. 2303.33. (A) No clerk of court shall accept a complaint 1594
to initiate a foreclosure on a residential mortgage loan unless 1595
the filing contains a copy of the notice and information required 1596
by section 1323.02 of the Revised Code. These copies shall be 1597

filed under seal in connection with the foreclosure, along with a 1598
certification by the filer that all required notices and 1599
information were provided to the borrower and the requisite 1600
periods of time have elapsed. 1601

(B) No clerk of courts shall accept a complaint to initiate a 1602
foreclosure on a residential mortgage unless that complaint is 1603
accompanied by the writing described in section 2308.02 of the 1604
Revised Code. 1605

(C) A clerk of court of common pleas or other judicial 1606
officer in this state, may access the mortgage foreclosure 1607
database established pursuant to section 1323.07 of the Revised 1608
Code to confirm information provided pursuant to this section. A 1609
materially inaccurate statement in the filer's certification is 1610
cause for dismissal of the action without prejudice and for 1611
payment by the filing party of costs the borrower incurs in 1612
defending the foreclosure proceeding. 1613

(D) Within three business days after issuing a writ of 1614
execution in a residential foreclosure action as described in 1615
section 2329.091 of the Revised Code, the clerk of court shall 1616
file information of that action with the administrative director 1617
of the Ohio supreme court for inclusion in the foreclosure 1618
database. The filing shall contain the name and address of the 1619
borrower, the date of the writ, and the name of the mortgage 1620
servicer or mortgage holder that filed the complaint to initiate 1621
the foreclosure action. 1622

(E) As used in this section, "residential mortgage," 1623
"residential mortgage loan," and "mortgage servicer" have the same 1624
meanings as in section 1323.01 of the Revised Code. 1625

Sec. 2308.01. As used in this chapter, "residential 1626
mortgage," "residential mortgage loan," "mortgage servicer" have 1627

the same meanings as in section 1323.01 of the Revised Code. 1628

Sec. 2308.02. (A) No person shall file a complaint to 1629
initiate a residential mortgage foreclosure action unless that 1630
complaint is accompanied by a writing that contains all of the 1631
following: 1632

(1) A statement setting forth the name of the holder of the 1633
note and asserting that the named holder is the true party in 1634
interest with a right to file the action; 1635

(2) A statement as to whether the mortgage note has been 1636
securitized and if so, the identity of any mortgage-backed 1637
security that holds the loan and the name of the trustee of that 1638
mortgage-backed security; 1639

(3) A statement of the plaintiff's counsel or person filing 1640
the complaint asserting that the counsel or person filing the 1641
complaint is the designated representative of the true party in 1642
interest, is authorized to negotiate on behalf of the plaintiff, 1643
and is not an intermediary representative of the plaintiff; 1644

(4) A statement as to whether the residential property is 1645
occupied and the date that its occupancy status last was assessed; 1646

(5) Evidence that a certified check for fifteen hundred 1647
dollars has been transmitted to the department of commerce as 1648
required under section 1323.11 of the Revised Code, or evidence 1649
that such an amount was transmitted within the past twenty-four 1650
months for a filing with respect to the same property and the same 1651
mortgage loan, or a statement that the fee requirement does not 1652
apply because the property is not occupied at the time of filing. 1653

(B) Any complaint to initiate a residential mortgage 1654
foreclosure action shall be accompanied by a copy of an appraisal 1655
of the property, conducted within the prior three months by an 1656
appraiser who is certified or licensed pursuant to Chapter 4763. 1657

of the Revised Code to perform residential appraisals. 1658

1659

Sec. 2308.03. (A) There is hereby declared a six-month 1660
moratorium on mortgage foreclosure actions on residential 1661
properties occupied by the owner of the property or the tenant of 1662
that owner, to commence on the effective date of this section. 1663

(B) During the time of the moratorium, all of the following 1664
apply with respect to mortgage foreclosure actions on occupied 1665
residential properties: 1666

(1) No court shall hear a complaint for foreclosure or issue 1667
a judgment on such a property. 1668

(2) No clerk of court shall issue a writ of execution on such 1669
a property. 1670

(3) No foreclosed property shall be sold at auction nor shall 1671
any auction be scheduled to conduct such a sale. 1672

(4) No court shall confirm the sale at auction of such a 1673
property. 1674

(C)(1) During the moratorium, a borrower shall make payments 1675
each month in an amount equal to one-half of the monthly payment 1676
that was in effect at the time the foreclosure action was filed, 1677
or other amount that the judge determines is just and equitable. 1678
The payments shall be allocated first for taxes and insurance if 1679
the borrower's mortgage loan required such payments into escrow, 1680
then to interest and any remaining amounts to principal. The 1681
borrower shall make the payments to the mortgage servicer to whom 1682
the borrower made payments at the time the foreclosure action was 1683
filed. 1684

(2) No mortgage servicer shall refuse to accept the payments 1685
that this section describes. 1686

(D)(1) If a borrower fails to make the payments that this 1687

section requires, thirty days after a missed payment, the party 1688
who filed the action may petition the court for the foreclosure 1689
action to resume and that action shall resume as if there were no 1690
moratorium. 1691

(E) At any time during the moratorium, a borrower may 1692
petition the court to request that the foreclosure action on the 1693
borrower's property proceed as if there were no moratorium. 1694

(F) Nothing in this section prevents the granting of a 1695
default judgment when the property is not occupied by the borrower 1696
or the borrower's tenant, when the borrower did not answer the 1697
complaint, or when the borrower without good cause does not appear 1698
at the hearing. 1699

(G) During the time of the moratorium, the borrower shall 1700
make a good faith effort to maintain the property and shall grant 1701
entry to inspect the property to the servicer or other 1702
representative of the servicer or mortgagee, upon a 1703
twenty-four-hour written notice from the servicer. 1704

(H) The moratorium this section provides does not apply to 1705
foreclosures that are filed by credit unions and depository 1706
institutions that service their own mortgage loans, when the 1707
mortgage loan that is being foreclosed is held and serviced by 1708
such a credit union or depository institution. 1709

Sec. 2308.04. (A) For a period of three years after the 1710
effective date of this section, in a residential mortgage 1711
foreclosure action that was filed prior to January 1, 2009, a 1712
judge has discretion to reduce the interest rate of the loan to an 1713
amount the judge determines is just and equitable and would enable 1714
the borrower to make payments and retain the property if the 1715
mortgage is a subprime mortgage loan as defined in section 1323.01 1716
of the Revised Code. 1717

(B) If a reduced interest rate does not lower the loan 1718
payments to a reasonable amount, the judge may extend the term of 1719
the mortgage or otherwise reduce the loan payment to a reasonable 1720
amount. The judge shall reduce the loan payment in this manner 1721
only if in consideration of the appraised value of the property 1722
and other equitable considerations, including a finding that both 1723
parties would benefit from such a modification, that under all the 1724
circumstances, the modification appears just and equitable, and 1725
the modification would enable the borrower to make payments and 1726
retain the property; 1727

(C) Any adjustment in mortgage payments a judge makes 1728
pursuant to this section shall be for not more than five years. 1729
Any difference in the payments the court establishes pursuant to 1730
this section and the payments due pursuant to the mortgage 1731
contract shall be due as a balloon payment at the end of the 1732
modification period. No interest shall accrue on this amount. 1733
During the time of the adjustment, the court shall maintain 1734
jurisdiction over the payments and may modify those payments as 1735
this section permits at any time as conditions merit and upon 1736
petition from the mortgagee. 1737

(D) The director of commerce shall establish in chart form 1738
information that servicers may use to determine if a mortgage loan 1739
is a subprime loan. The chart shall disclose the appropriate 1740
interest rate triggers that determine if a loan is a subprime loan 1741
for each week of the period this section covers. A servicer who 1742
relies on the chart to determine if a loan is a subprime loan may 1743
not be held liable for any violation with respect to that error. 1744

Section 2. Section 2308.03 of the Revised Code is hereby 1745
repealed, effective six months after the effective date of this 1746
act. 1747

Section 3. Section 2308.04 of the Revised Code is hereby 1748
repealed, effective three years after the effective date of this 1749
act. 1750

Section 4. That existing sections 109.572 and 1321.52 of the 1751
Revised Code are hereby repealed. 1752

Section 5. Section 109.572 of the Revised Code is presented 1753
in this act as a composite of the section as amended by Sub. H.B. 1754
195, Sub. H.B. 545, and Sub. S.B. 247, all of the 127th General 1755
Assembly. The General Assembly, applying the principle stated in 1756
division (B) of section 1.52 of the Revised Code that amendments 1757
are to be harmonized if reasonably capable of simultaneous 1758
operation, finds that the composite is the resulting version of 1759
the section in effect prior to the effective date of the section 1760
as presented in this act. 1761

Section 6. The General Assembly enacts sections 2308.03 and 1762
2308.04 of the Revised Code as extraordinary measures necessary to 1763
respond to an emergency situation created by the mortgage 1764
foreclosure crisis in this state. The high rate of residential 1765
mortgage foreclosures is proving harmful to families, lenders, and 1766
communities alike. The purpose of enacting these sections is to 1767
mitigate the very negative impact of the current situation and to 1768
preserve property values by providing time for solutions to begin 1769
to have an impact. These solutions that need time to be effective 1770
include modifying loans in a manner beneficial to all parties 1771
concerned and implementing federal and state initiatives that 1772
provide assistance and guidance to homeowners, lenders, and 1773
communities. 1774

Section 7. Sections 1323.20 to 1323.37 and section 2303.33 of 1775
the Revised Code take effect six months after the effective date 1776

of this act. During that six month period, the Superintendent of 1777
Financial Institutions of the Department of Commerce may take 1778
applications for registration as a mortgage servicer as the 1779
delayed sections provide and otherwise process the applications. 1780
When the delayed sections become effective, the superintendent may 1781
approve such registrations and issue certificates of registration. 1782

Section 8. This act is hereby declared to be an emergency 1783
measure necessary for the immediate preservation of the public 1784
peace, health, and safety. The reason for such necessity is the 1785
alarming rate of increase in mortgage foreclosures, with 1786
devastating impact on homeowners and communities alike, making 1787
immediate intervention and assistance necessary to allow owners an 1788
opportunity to explore alternatives and resolve problems so that 1789
they keep their homes and to halt and reverse the negative impact 1790
of vacant and foreclosed homes on the health and safety of 1791
communities. Therefore, this act shall go into immediate effect. 1792