

1301:8-7-01

Definitions.

Unless otherwise specified, as used in Chapter 1322. of the Revised Code and in this chapter of the Administrative Code:

- (A) "Advertisement" and "advertising" means any written or oral statement, illustration, or depiction, whether in English or any other language, that is designed to effect a sale or create interest in purchasing goods or services, whether it appears on or in a label, package, package insert, radio, television, cable television, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, film, slide, audio program transmitted over a telephone system, telemarketing script, on-hold script, upsell script, training materials provided to telemarketing firms, program-length commercial ("infomercial"), the internet, cellular network, or any other medium. ~~Promotional materials and items and web pages are included in the~~ The term advertisement and advertising includes web pages and social media posts, but does not include de minimis promotional items such as pens, pencils, balloons, and coffee mugs.
- (B) "At the time that the request for the mortgage is refused or denied" means no later than five business days from the day that the residential mortgage loan application has been refused or denied.
- (C) "Borrower" means an individual who is assisted by a mortgage loan originator in applying for or obtaining a residential mortgage loan and includes, ~~but is not limited to,~~ a buyer.
- (D) "Clerical or support duties" has the same meaning as "administrative or clerical tasks" as defined in division (A) of section 1322.01 of the Revised Code.
- ~~(D)~~(E) "Credit union service organization" means an entity that a credit union, chartered and lawfully doing business under the laws of this state, another state, or the United States, invests in or loans to and that primarily provides products or services to credit unions or their members.
- ~~(E)~~(F) "Financial and mortgage information" means information about a borrower or potential borrower that is customary or necessary to include in a residential mortgage loan application.
- ~~(F)~~(G) "For compensation or gain" means receives or expects to receive payment of money or anything of value in connection with the activities described in paragraph (I)(1) of this rule or as a result of any residential mortgage loan terms entered into as a result of such activities.

~~(G)~~(H) "Leads" means financial and mortgage information about potential residential mortgage loan borrowers, including, ~~but not limited to,~~ information submitted by potential borrowers who fill out online questionnaires, contests, or surveys.

~~(H) "Licensee," as defined in division (D) of section 1322.01 of the Revised Code, includes a temporary licensee, except that section 1322.041 of the Revised Code shall not apply to a temporary licensee.~~

(I)

(1) "~~Mortgage Loan~~ loan originator," in accordance with section ~~1322.024~~1322.02 of the Revised Code, ~~is expanded to mean~~ includes an individual who for compensation or gain, or in anticipation of compensation or gain, does any of the following:

(a) Takes or offers to take a residential mortgage loan application;

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

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

~~(d) Issues or offers to issue a commitment for a residential mortgage loan to a borrower;~~

~~(e)~~(b) Performs the clerical or support duties of a loan processor or underwriter as an independent contractor.

(2) "~~Mortgage Loan~~ loan originator" does not include; ~~in addition to those individuals listed in division (E)(2) of section 1322.01 of the Revised Code, any of the following:~~

(a) Individuals listed in division (AA)(2) of section 1322.01 of the Revised Code;

~~(a)~~(b) An individual who is an employee of a federal, state, or local government agency or housing finance agency and who acts as a mortgage loan originator only pursuant to his or her official duties as an employee of the federal, state, or local government agency or housing finance agency;

~~(b)~~(c) An employee of a qualified exempt entity who acts solely as a loan processor or underwriter and who does not represent to the public, through advertising or other means of communicating, including the

use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the employee can or will perform any of the activities of a mortgage loan originator.

~~(J)~~ "Mortgage banker" includes, in addition to those persons listed in divisions ~~(G)(2)(h)(i)~~ to ~~(G)(2)(h)(iv)~~ of section 1322.01 of the Revised Code, a person that makes, services, buys, or sells residential mortgage loans secured by a first lien, that underwrites the loans, and who meets any of the following criteria:

~~(1)~~ The person has been designated as an approved lender by the United States department of agriculture (USDA) to offer the single family guaranteed rural housing program;

~~(2)~~ The person has been directly approved by the "Federal Home Loan Bank of Cincinnati" (FHLB of Cincinnati) as a participating financial institution for the mortgage purchase program and complies with the underwriting and documentation requirements of the FHLB of Cincinnati.

~~(K)~~(J) "Mortgage broker" includes, in addition to those persons listed in division ~~(G)(1)(Y)~~ of section 1322.01 of the Revised Code, a person who is physically located in this state but who regularly provides or offers to provide mortgage broker services only to borrowers or for property located in other states.

~~(L)~~(K) "NMLS" means the "nationwide mortgage licensing system and registry" or "nationwide multi-state licensing system" or any subsequent name for the registry adopted by "Conference of State Bank Supervisors" and the "American Association of Residential Mortgage Regulators."

~~(M)~~(L) "Originate," "originating," "origination," or and "act(ing)act as a mortgage loan originator means-mean to do any of the acts set forth in paragraph (I)(1) of this rule or in division (AA)(1) of section 1322.01 of the Revised Code.

~~(N)~~(M) "Other equivalent consensual security interest" includes, ~~but is not limited to,~~ a retail installment sale as that term is defined in division (A) of section 1317.01 of the Revised Code and a land installment contract as defined in division (A) of section 5313.01 of the Revised Code.

~~(O)~~(N) "Person" includes, without limitation, a natural person, corporation, limited liability company, partnership, association, or other entity listed in division (EE) of section 1701.01 of the Revised Code.

~~(P)~~(O) "Principally" means more than fifty per cent of the total time worked in a calendar month, or in a longer period as determined by the superintendent for good cause shown.

~~(Q)~~(P) "Qualified exempt entity" means a person holding a valid letter of exemption issued pursuant to section ~~1322.022 or 1322.023~~1322.05 of the Revised Code.

~~(R)~~(Q) "Resident of this state" does not include an individual who is purchasing a primary residence in another state.

~~(S)~~(R) "Residential mortgage loan application" or "loan application" means a request, in any form, for an offer (or a response to a solicitation of an offer) of residential mortgage loan terms, and the information about the borrower or prospective borrower that is customary or necessary in a decision on whether to make such an offer.

~~(T)~~(S) "Settlement service provider" means a person who provides settlement services as that term is defined in 12 C.F.R. 1024.2, as in effect on ~~January 12, 2014~~May 1, 2024.

~~(U)~~(T) "Takes or offers to take a residential mortgage loan application" means receives a residential mortgage loan application for the purpose of facilitating a decision whether to extend an offer of residential mortgage loan terms to a borrower or prospective borrower (or to accept the terms offered by a borrower or prospective borrower in response to a solicitation), whether the application is received directly or indirectly from the borrower or prospective borrower.

~~(V)~~(U) "Transaction of business as a mortgage broker in this state" means the origination of a residential mortgage loan in any of the following circumstances:

- (1) For any resident of this state;
- (2) For any property in this state;
- (3) By a person who is physically located in this state but who regularly provides or offers to provide mortgage broker services only to borrowers or for property located in other states.

~~(W)~~ "Underwrites the loans" means to perform clerical or support duties as that term is defined in ~~12 U.S.C. 5102(5)(B)~~, as in effect on ~~January 12, 2014~~, on behalf of a borrower and to either comply with the manual underwriting standards of or use the automated underwriting system required by the approving authority for a transaction made under that same authority. At the qualified exempt entity's discretion, the clerical or support duties of a loan processor or underwriter may be performed by an independent contractor holding an active loan originator license issued pursuant to ~~Chapter 1322.~~ of the Revised Code or a loan processing or underwriting company holding a valid letter of exemption issued pursuant to rule ~~1301:8-7-32~~ of the Administrative Code.

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.02, 1322.57
Rule Amplifies: R.C. Chapter 1322
Prior Effective Dates: 01/22/1995, 09/01/2006, 06/01/2007, 01/04/2016

1301:8-7-02

Registration, letters of exemption for qualified exempt entities, office requirements and restrictions.

(A) A registrant shall register every office where any of the following activities occur or conditions exist:

- (1) Leads are solicited or received, directly or indirectly, from residents of this state, for property in this state, or from a location physically in this state;
- (2) Records pertaining to business conducted pursuant to Chapter 1322. of the Revised Code are maintained in paper form;
- (3) A registrant's licensees originate residential mortgage loans for residents of this state, property in this state, or from a location physically in this state regardless of the location of the borrower or property.

(B) A qualified exempt entity shall seek and obtain an approved letter of exemption for every office where any of the following activities occur or conditions exist:

- (1) Records pertaining to business conducted pursuant to Chapter 1322. of the Revised Code are maintained in paper form;
- (2) A qualified exempt entity's licensees originate residential mortgage loans for residents of this state or property in this state.

(C) A registrant or qualified exempt entity may share office space with another person if:

- (1) The physical arrangement does not confuse or mislead borrowers;
- (2) Access to borrower files, financial and mortgage information of borrowers or potential borrowers, and all records required to be maintained by Chapter 1322. of the Revised Code, whether in electronic or paper form, is restricted to only the registrant's or qualified exempt entity's employees or licensees, and is maintained in compliance with applicable state and federal privacy laws.
- (3) Notwithstanding paragraph (C)(2) of this rule, a registrant or qualified exempt entity may allow an independent contractor licensed pursuant to Chapter 1322. of the Revised Code or employees of a loan processing or underwriting company holding a valid letter of exemption issued pursuant to rule 1301:8-7-32 to access borrower files, financial and mortgage information of borrowers or potential borrowers, and all records required to be maintained by Chapter 1322. of the Revised Code, whether in electronic or paper form, for the purpose of conducting the clerical or support duties of loan processing or underwriting for the same registrant or qualified exempt entity.

~~(D)~~ In accordance with division (A)(1) of section 1322.02 of the Revised Code, a registrant shall maintain at all times at least one registered office located in this state that meets all of the following criteria:

- ~~(1)~~ The registered office shall be a physical location of at least one room in a building of secure construction, which does not include portable buildings;
- ~~(2)~~ The registrant conducts mortgage broker activities pursuant to Chapter 1322. of the Revised Code at the registered office;
- ~~(3)~~ At least one licensee employed by or associated with the registrant uses the registered office to principally transact business as a mortgage broker in this state and has the ability to investigate and resolve questions and complaints from buyers;
- ~~(4)~~ A buyer who wishes to meet face-to-face with a licensee or employee of the registrant can bring all documents applicable to his or her loan application or existing residential mortgage loan for examination in conjunction with an inquiry or complaint; and
- ~~(5)~~ The registered office shall have a street address, and shall not be a post office box or similar designation. Unstaffed, virtual or temporary office locations shall not meet the requirements of section 1322.02 of the Revised Code.

~~(E)~~(D) The following restrictions and requirements apply to each additional office location maintained by the registrant, also referred to herein as branch offices:

- (1) A branch office shall not be a separate business entity;
- (2) A branch office shall not pay its own operating expenses for the transaction of business as a mortgage broker in this state. Operating expenses include, ~~but are not limited to,~~ compensation of branch office employees, and payments for equipment, furniture, office rent, utilities, advertising and other similar expenses incurred in operating a mortgage broker business. All assets and liabilities of the branch are assets and liabilities of the registrant and all income and expenses of the branch are income and expenses of the registrant and shall be properly accounted for in the financial records and state and federal tax returns of the registrant. Compensation of a branch manager may be based on the income of the branch minus the operating expenses of the branch as long as the ultimate responsibility and payment of those operating expenses remains the responsibility of the registrant;

- (3) A branch office shall not indemnify, hold harmless, or defend a registrant against damages, losses, injury, or liability arising out of acts or omissions of the branch or employees or licensees working from the branch.
 - (4) A branch office shall not maintain a bank account for the payment of expenses that is separate from the bank accounts of the registrant. All operating expenses shall be paid from an account of the registrant, and may not be paid through or from any employee's personal account or any non-registrant account;
 - (5) A branch office shall not maintain its own lines of credit, warehouse agreements, or other investor agreements that are independent from those of the registrant;
 - (6) All practices, policies, and procedures, including ~~but not~~, those relating to employment and operations, shall be established by the registrant and shall be applied consistently to the main office and all branch offices.
- ~~(F)~~(E) Any arrangement where a registrant allows another person to transact business as a mortgage broker in this state under the registrant's certificate of registration at a location that does not comply with paragraph ~~(E)~~ (D) of this rule, sometimes referred to as "net branching," is not permissible.
- ~~(G)~~ In a conspicuous place in each registered office, a registrant shall at all times post a copy of the certificate of registration issued for that office.
- ~~(H)~~ A mortgage banker holding an approved letter of exemption is exempt from registration as a mortgage broker only for residential mortgage loan transactions that meet all of the following criteria:
- ~~(1)~~ The residential mortgage loan transaction falls within one of the mortgage banker's specific approvals set forth in divisions ~~(G)(2)(h)(i) to (G)(2)(h)(iv)~~ of section ~~1322.01~~ of the Revised Code or paragraph ~~(J)~~ of rule ~~1301:8-7-01~~ of the Administrative Code and issued by the United States department of housing and urban development (FHA), federal national mortgage association (FNMA), federal home loan mortgage corporation (FHLMC), United States department of veterans affairs (VA), USDA, or FHLB of Cincinnati loan;
 - ~~(2)~~ The mortgage banker makes, services, buys, or sells the residential mortgage loans;
 - ~~(3)~~ The residential mortgage loans are secured by a first lien;
 - ~~(4)~~ The mortgage banker underwrites the loans.

- ~~(I)~~ A mortgage banker shall not under the authority of its letter of exemption originate or make a residential mortgage loan that falls outside of the specific approvals issued to it by FHA, FNMA, FHLMC, VA, USDA, or FHLB of Cincinnati and which specific approvals were submitted to and approved by the superintendent in order to obtain the letter of exemption. A mortgage banker may under the authority of its letter of exemption originate or make a conventional jumbo FHA, FNMA, or FHLMC loan only if it has a specific approval issued to it by FHA, FNMA, or FHLMC, the underwriting and documentation of the conventional jumbo loan otherwise meets the requirements of that same approval, and the approval was submitted to and approved by the superintendent in order to obtain the letter of exemption. A mortgage banker shall not under the authority of its letter of exemption originate or make a residential mortgage loan which is secured by other than a first lien. A mortgage banker may hold an approved letter of exemption under Chapter 1322. of the Revised Code and a certificate of registration under sections 1321.51 to 1321.59 of the Revised Code.
- ~~(J)~~ A mortgage banker holding an approved letter of exemption shall not act as a mortgage broker. A mortgage broker holding a certificate of registration may act as a mortgage banker without having to obtain an approved letter of exemption from the superintendent provided that all residential mortgage loan transactions shall comply with the requirements for loans made by a registered mortgage broker.
- ~~(K)~~(F) A residential mortgage loan is primarily for personal, family, or household use if more than one half of the total loan amount is used for consumer purposes and not for business purposes. In assessing the purpose (or purposes, if the loan is a hybrid used for both consumer and business purposes), the superintendent ~~shall~~may consider the totality of the circumstances surrounding the loan and not merely the purpose of cash-out proceeds. If more than one half of the total loan amount is for business purposes, then the requirements of Chapter 1322. of the Revised Code do not apply.
- ~~(L)~~(G) Notwithstanding paragraph ~~(K)~~(F) of this rule, a residential mortgage loan made to a borrower for purposes of investing in a dwelling to either lease, rent, or resell for profit is considered a business purpose loan and is not subject to the requirements of Chapter 1322. of the Revised Code unless the dwelling, or at least one unit of the dwelling in the case of a two to four family housing unit, will be occupied by the borrower or ~~any~~an immediate family member of the borrower. For the purposes of this paragraph, "immediate family" member shall have the same meaning as set forth in division (R) of section 1322.01 of the Revised Code.
- ~~(M)~~(H) Nothing in division ~~(E)~~(A)(2)(b) of section 1322.01 of the Revised Code prevents a person licensed under Chapter 4735. of the Revised Code or similar law of another state from receiving compensation for real estate brokerage activities performed for a mortgage lender or agent thereof who is also the owner of the property provided that the person does not act as a ~~loan originator~~mortgage loan originator in the transaction.

~~(N)~~(I) A registrant or qualified exempt entity shall not hold a certificate of registration issued pursuant to Chapter 4712. of the Revised Code.

~~(O)~~ A registrant or qualified exempt entity shall not evade the limits on points and fees for qualified mortgages set forth in 12 C.F.R. 1026.43(e)(3), as in effect on January 12, 2014, by conducting business in conjunction with a person registered or who should be registered pursuant to Chapter 4712. of the Revised Code. Assisting a borrower with improving his or her credit record, history, or rating as well as removing adverse credit information are considered part of the normal activities of a registrant or qualified exempt entity.

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.02,1322.57
Rule Amplifies: 1322.01, 1322.07, 1322.05, 1322.04
Prior Effective Dates: 01/22/1995, 09/01/2006, 06/01/2007, 01/04/2016

1301:8-7-03

Standards for applications, certificates of registration, letters of exemption, and licenses.

- (A) Submitting an application for a certificate of registration, letter of exemption or license via the NMLS does not authorize the applicant to begin acting as a registrant, qualified exempt entity, or licensee. ~~The applicant must first receive an active certificate of registration, letter of exemption or license from the superintendent to be authorized to begin acting as a registrant, qualified exempt entity, or licensee.~~
- (B) Each question and answer on the NMLS, including any exhibit or attachment, is material to the application process. Submitting false or fraudulent information or omitting information is grounds to refuse to issue the certificate of registration, letter of exemption, or license and may subject the applicant and individuals who signed and attested to the application to administrative, civil, or criminal actions.
- (C) Engaging in mortgage broker or loan origination activity on or after the first day of January by a person who fails to submit a renewal application via the NMLS by the thirty-first day of January constitutes activity without a certificate of registration or license in violation of Chapter 1322. of the Revised Code, and the person engaged in the violation may be subject to administrative, civil, or criminal actions.
- (D) Registrants, qualified exempt entities, licensees, and applicants are responsible for ensuring that all information maintained on the NMLS is current and accurate. If information on the NMLS becomes out-of-date or inaccurate for any reason, the registrant, qualified exempt entity, licensee or applicant shall correct the information within ten business days of the change unless a different time frame is specified in Chapter 1322. of the Revised Code or rule 1301:8-7-19 of the Administrative Code.
- ~~(E) In order to apply for an active license, a licensee or applicant to be a licensee shall have a sponsorship request submitted via the NMLS on his or her behalf by the registrant or qualified exempt entity with whom the licensee or applicant seeks to be associated or employed.~~
- ~~(E)~~(E) Having a sponsorship submitted via the NMLS is not sufficient to activate a license. To be authorized to originate residential mortgage loans for a registrant or qualified exempt entity, ~~the a current~~ sponsorship request must be approved by the superintendent and the ~~loan originator~~ mortgage loan originator must receive an active license from the superintendent.
- ~~(G)~~(F) An individual or registered loan originator may obtain or maintain a license in escrow without having a sponsorship submitted via the NMLS on his or her behalf by a registrant or qualified exempt entity. ~~The licensee shall not originate residential mortgage loans while his or her license is in escrow.~~

~~(H)~~ A licensee shall not originate a residential mortgage loan for a transaction that is governed by sections 1321.51 to 1321.60 of the Revised Code unless the individual is licensed as a mortgage loan originator as that term is defined in division (P) of section 1321.51 of the Revised Code. An individual may obtain a loan originator license under Chapter 1322. of the Revised Code and a mortgage loan originator license under sections 1321.51 to 1321.60 of the Revised Code if the individual's sponsor is registered to originate loans pursuant to both statutes. An individual shall not be employed by or associated with more than one registrant or qualified exempt entity at any one time. For purposes of this paragraph, registrant includes a person registered under sections 1321.51 to 1321.60 of the Revised Code.

~~(I)~~ When transferring to a different registrant or qualified exempt entity, or when a loan originator seeks to activate an escrowed license, a nonrefundable fifteen dollar fee plus applicable NMLS fees must be submitted via the NMLS.

~~(J)~~(G) An applicant may request the withdrawal of an application for a certificate of registration, letter of exemption or license prior to a determination on the application being made by the superintendent by submitting a request via the NMLS. The application may only be withdrawn with the permission of the superintendent. An application withdrawn at the request of the applicant may only be re-activated within seven calendar days of the withdrawal for good cause shown and at the discretion of the superintendent. An applicant may reapply following a withdrawn application. ~~does not prohibit a person from reapplying.~~

~~(K)~~(H) An escrowed or suspended license is subject to all of the following:

(1) ~~If a license is placed in escrow or suspended, the licensee shall comply with the continuing education requirements of section 1322.052 of the Revised Code.~~ Placing a license in escrow or having a license suspended does not extend or toll the time for completion of the licensee's continuing education requirements under section 1322.28 of the Revised Code;

(2) An escrowed or suspended license may be renewed pursuant to division (B) of section ~~1322.041~~1322.21 of the Revised Code;

(3) An escrowed or suspended license is subject to suspension, refusal, revocation, or any other administrative, civil, or criminal actions for conduct occurring before, during, or after the license was placed in escrow or suspended status.

~~(L)~~(I) A suspended certificate of registration or letter of exemption is subject to all of the following:

- (1) A suspended certificate of registration or letter of exemption may be renewed pursuant to division (C) of section ~~1322.04~~1322.10 or division (D) of ~~sections 1322.022 and 1322.023~~section 1322.05 of the Revised Code, respectively;
 - (2) A suspended certificate of registration or letter of exemption is subject to refusal, revocation, or any other administrative, civil, or criminal actions for conduct occurring before, during or after the suspension.
- ~~(M)~~(J) A suspended certificate of registration, letter of exemption, or license may be returned to active status if it meets all of the following:
- (1) The superintendent believes that all conditions which led to the suspension have been remedied;
 - (2) The registrant, qualified exempt entity, or licensee is otherwise eligible to hold an active certificate of registration, letter of exemption, or license.
- ~~(N)~~(K) A certificate of registration, letter of exemption or license may be surrendered in accordance with the following:
- (1) A person may voluntarily surrender a certificate of registration, letter of exemption, or license unless the person is being investigated by the superintendent or another financial institution regulatory authority as defined in division (C) of section ~~1322.061~~1322.36 of the Revised Code, or a notice of opportunity for a hearing has been issued by the superintendent in accordance with Chapter 119. of the Revised Code. A person may surrender by submitting a written statement to the superintendent or by submitting a request via the NMLS. The certificate of registration, letter of exemption or license may only be surrendered with the permission of the superintendent;
 - (2) A surrendered certificate of registration, letter of exemption or license is subject to administrative, civil, or criminal actions for conduct occurring before, during or after the surrender and does not impair or affect the obligation of a pre-existing lawful contract between the registrant, qualified exempt entity or licensee and any person, including a borrower.

Effective: 9/1/2024

Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03

Statutory Authority: 1322.57

Rule Amplifies: 1322.07, 1322.05, 1322.29, 1322.21

Prior Effective Dates: 01/22/1995, 09/01/2006, 06/01/2007, 01/04/2016

TO BE RESCINDED

1301:8-7-05 **Special account requirements.**

- (A) In accordance with section 1322.08 of the Revised Code, a registrant shall establish and maintain a non-interest-bearing, depository special account. The special account shall be in the name of the registrant as it appears on its certificate of registration.
- (B) The special account shall be reconciled at least monthly.
- (C) A registrant shall keep records of all deposits, withdrawals, and disbursements from the special account. The records shall include the following:
- (1) Date funds received;
 - (2) Party from whom funds are received and the purpose of the funds;
 - (3) Amount received;
 - (4) Date funds are deposited in the special account;
 - (5) Check number and date funds are disbursed;
 - (6) Party to whom funds are disbursed, purpose of disbursement and borrower for whom the disbursement was made;
 - (7) Any other documents necessary to verify and explain record entries and identify the current balance in the special account.
- (D) All funds required to be deposited in the special account shall be deposited prior to the end of the tenth business day following receipt.
- (E) All deposits to the special account shall be documented by a bank statement or deposit slip which has been validated by bank imprint confirming that the funds were actually deposited into the special account.
- (F) Deposits to the special account shall be limited to funds delivered and made payable to the registrant for payment to bona fide third parties. Notwithstanding the foregoing sentence, a registrant may deposit funds into the special account for purposes of establishing and maintaining the special account.
- (G) A registrant is responsible for the disbursement of all special account funds. Funds deposited in the special account shall not be commingled with other funds.

- (H) When a registrant receives a check or wire transfer from closing which includes both the registrant's fee and a payment for a bona fide third party fee, the registrant shall instruct the depository institution to split the check or wire transfer and route any moneys due to a bona fide third party to the special account, and moneys due the registrant to its general account.
- (I) After a registrant has satisfied all payments owed to bona fide third parties, and it is then determined that moneys must be refunded to a borrower, such refund must be remitted to the borrower within five business days.

Effective: 9/1/2024

Five Year Review (FYR) Dates: 6/17/2024

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.12
Rule Amplifies: 1322.08
Prior Effective Dates: 01/22/1995, 09/01/2006, 01/04/2016

1301:8-7-06

Recordkeeping.

- (A) In accordance with division (B) of section ~~1322.06~~1322.34 of the Revised Code and division (C)(~~43~~) of section ~~1322.022~~1322.05 of the Revised Code, ~~a registrant or qualified exempt entity shall maintain records pertaining to business transacted pursuant to Chapter 1322. of the Revised Code for four calendar years. The~~the four-year retention period commences on the date the residential mortgage loan is closed or, if the residential mortgage loan is not closed, the date of the withdrawal or denial of the residential mortgage loan application. If the residential mortgage loan is serviced by a qualified exempt entity, the four-year retention period commences on the date the residential mortgage loan is paid in full or the date the registrant ceases to service the residential mortgage loan. The retention period for advertisements commences from the date the advertisements are published, broadcast or disseminated.
- (B) A registrant or qualified exempt entity shall notify the superintendent via the NMLS of a change of location of its records pertaining to business conducted pursuant to Chapter 1322. of the Revised Code no later than five business days after the change.
- (C) ~~A registrant or qualified exempt entity who maintains its records pertaining to business transacted pursuant to Chapter 1322. of the Revised Code in a location outside Ohio shall pay~~As used in division (E) of section 1322.34 of the Revised Code, "estimated costs of the examination" includes, in addition to the proportionate costs of the salaries of division of financial institutions employees who conduct the examination, the division's travel, lodging, and per diem expenses incurred in travel to examine the books and records. At the request of the superintendent, payment of the ~~estimated travel, lodging and per diem expenses~~estimated costs of the examination, as determined by the superintendent, shall be made in advance and placed on deposit with the division. After actual costs are determined, any excess funds shall be refunded to the registrant or qualified exempt entity.
- (D) All records shall be kept current and shall be available at all times during normal business hours for review by the superintendent. Records should be legible and maintained in a type size that is clearly readable without magnification and in conformity with ~~any specific typeface or font size that may be required by~~ state or federal law. Except when otherwise provided by federal or state law, records shall be maintained in English. When records are allowed to be in a language other than English, the registrant or qualified exempt entity, at its expense, shall be responsible for providing the superintendent with a full and accurate translation. For purposes of this rule, "current" means within thirty days from the date of the occurrence of the event required to be recorded.
- (E) A registrant or qualified exempt entity shall segregate the records pertaining to business conducted pursuant to Chapter 1322. of the Revised Code from all other business records.

(F) Records pertaining to business conducted pursuant to Chapter 1322. of the Revised Code may be maintained in their original paper form or on an electronic storage media or system. Any records maintained on an electronic storage media or system shall meet all of the following requirements:

- (1) The electronic storage media or system must preserve the records in a non-rewriteable, non-erasable format;
- (2) The electronic storage media or system must verify automatically the quality and accuracy of the storage media recording process;
- (3) The electronic storage media or system must serialize the original and the duplicate units of storage media, and affix a date and time for the required period of retention on both the original and duplicate;
- (4) The electronic storage media or system must have the capacity to readily download indices and records preserved on the electronic storage media or system to any medium acceptable to the superintendent;
- (5) Acceptable facilities and appropriate equipment must, at all times during normal business hours, be available to the superintendent for immediate, easily readable projection or production of electronic storage media or system images and for producing easily readable images;
- (6) Immediate facsimile enlargement must be available upon the superintendent's request;
- (7) A duplicate copy of the electronic record stored on any electronic media or system for the time required must be stored separately from the "original" electronic record;
- (8) The electronic storage media or system must organize and index accurately all information maintained on both the original and duplicate storage media or system. At all times, a registrant or qualified exempt entity must be able to have indices of the electronic records being stored available for examination by the superintendent. Each index must also be duplicated and the duplicate copies must be stored separately from the original copy of each index. Original and duplicate indices must be preserved for the time required for the indexed records;
- (9) An audit system will be in place providing for accountability regarding inputting of records and inputting any changes made to every original and duplicate record maintained and preserved. At all times, a registrant or qualified exempt entity must be able to have the results of the audit system available for

examination by the superintendent. The audit results must be preserved for the time required for the audited records;

- (10) All information necessary to access records and indices stored on the electronic storage media or system, a copy of the physical and logical file format of the electronic storage media or system, the field format of all different information types written on the electronic storage media or system, together with the appropriate documentation and information necessary to access records and indices will be maintained, kept current and provided promptly to the superintendent, upon request;
 - (11) No paper documents produced or reproduced by means of an electronic storage media or system shall be destroyed until the conditions of this paragraph have been met with regard to each paper document that is to be destroyed; and
 - (12) At the request of the division, the records shall be printed on paper for inspection or examination without cost to the division within forty-eight hours of the request. The superintendent may grant additional time for good cause shown upon receipt of a request for additional time from the registrant or qualified exempt entity.
- (G) A registrant or qualified exempt entity shall create, maintain, keep current and preserve the following books and records:
- (1) A searchable electronic spreadsheet of all borrowers for whom the registrant or qualified exempt entity has obtained residential mortgage loans. The spreadsheet shall contain for each borrower the closing date of the residential mortgage loan obtained for the borrower, the amount of the residential mortgage loan, the licensee responsible for originating the residential mortgage loan, the identity of the lender that funded or purchased the residential mortgage loan, the residential mortgage loan application date, the residential mortgage loan program type, ~~the underwriter whose decision was relied upon to close and fund the residential mortgage loan,~~ the property address, and the identifying loan number;
 - ~~(2) A complete signed copy of every final settlement statement, arranged chronologically, for every residential mortgage loan originated by the registrant or qualified exempt entity on behalf of a borrower. The settlement statement file shall be maintained separately from the settlement statements contained in the individual borrower files.~~
 - ~~(3)~~(2) A borrower file for each application received which shall contain, when applicable, at least the following:

- (a) A copy of the initial and final residential mortgage loan applications signed and dated by the borrower and the licensee originating the residential mortgage loan, including any attachments, supplements, or addenda thereto;
 - (b) Copies of verification documentation, including, ~~but not limited to,~~ written authorizations to order credit reports, income verifications, deposit and asset verification, all copies of the credit reports and any supplements to the credit report, and any correspondence to any person regarding credit repair;
 - (c) Copies of written or electronic communications, including, ~~but not limited to,~~ underwriting decisions, opinions or prequalification correspondence, interest rate lock-ins, residential mortgage loan commitments, and notes in connection with that residential mortgage loan application or its ultimate disposition;
 - (d) Copies of ~~required~~ all state and federal disclosures or forms applicable to the borrower, both initial and any revised versions.
 - (e) A copy of each appraisal and the corresponding appraisal invoice and order form; and
 - (f) Receipts or other documentation for any fees collected by the registrant or qualified exempt entity from the borrower for payment to bona fide, third-party service providers.
- ~~(4)~~(3) A file of all advertisements.
- ~~(5)~~(4) General business records, including, ~~but not limited to:~~
- (a) All agreements with lenders to whom residential mortgage loan applications are submitted;
 - (b) All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and ~~cancelled~~ canceled checks or electronic images;
 - (c) Copies of checks made payable to a registrant or qualified exempt entity from a borrower or other entity paying a fee for the services of the registrant, qualified exempt entity, or licensee;
 - (d) Documentation to support the source of and purpose for each receipt and disbursement of funds in order that the receipts may be reconciled to bank deposits and to the books of the registrant or qualified exempt entity.

Settlement statements are not acceptable proof of receipt for purposes of this rule;

- (e) Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors and others compensated by the registrant or qualified exempt entity in connection with the conduct of mortgage lending business;
 - (f) Copies of all contractual arrangements or understandings with employees, independent contractors, and third parties that relate in any way to the providing of residential mortgage broker or mortgage lending services, including ~~but not limited to~~ any agreements for the pricing of goods or services, any investor contracts, any employment agreements, and any non-compete agreements;
 - (g) Copies of organizational documents, including, ~~but not limited to~~, articles of incorporation, corporate minutes, and documents evidencing corporate name changes, change of ownership or officers; and
 - (h) Such other books and records as the superintendent may require.
- (H) ~~In order to reduce the risk of consumer fraud and related harms, including identity theft, registrants and~~ A registrant or qualified exempt entity shall be required to comply with section 216 of the "Fair and Accurate Credit Transactions Act of 2003," 117 Stat. 1952 (amended 2010), rules promulgated under 15 U.S.C. 1681w as in effect on January 12, 2014, section 501 of the "Gramm Leach Bliley Act," 113 Stat. 1338 (1999) (amended 2010), and 15 U.S.C. 6801 as in effect on January 12, 2014, and the rules promulgated pursuant to those federal acts, including 16 C.F.R. Part 313 and 16 C.F.R. Part 682, as those rules are in effect January 12, 2014 May 1, 2024, ~~pertaining to the maintenance, security, and disposal of consumer information and records.~~

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.34, 1322.05
Prior Effective Dates: 01/22/1995, 09/01/2006, 06/01/2007, 01/04/2016

1301:8-7-07

Advertising.

- (A) Every advertisement placed, or caused to be placed, by a registrant or licensee shall in manner or form that is reasonably understandable to the average borrower:
- (1) State the name of the registrant as printed on its certificate of registration. If a registrant has been approved by the superintendent to conduct business using a trade name or fictitious name, the registrant may use its name, trade name, or fictitious name, or any combination of them, as they appear on its certificate of registration;
 - (2) State the registrant's certificate of registration number and NMLS unique identifier;
 - (3) State the full name or other names of the licensee as listed on the NMLS consumer access website, the licensee's license number, and NMLS unique identifier whenever a licensee's name is placed in an advertisement; and
 - (4) State the registrant's office address as listed on the registrant's certificate of registration.
- (B) For purposes of paragraph (A)(2) of this rule, a registrant may opt to state only its NMLS unique identifier in lieu of stating both its certificate of registration number and NMLS unique identifier.
- (C) For purposes of paragraph (A)(3) of this rule, a licensee may opt to state only ~~his or her~~ the licensee's NMLS unique identifier in lieu of stating both the licensee's license number and NMLS unique identifier.
- ~~(D) When the information required by paragraphs (A) to (C) of this rule appears in a written advertisement, it shall be clearly legible to a reasonable borrower.~~
- ~~(E) Paragraphs (A) to (D) of this rule shall not apply to advertising done on pens, pencils, pocket calendars, balloons, coffee mugs, and similar promotional items.~~
- ~~(F) Website advertising shall comply with paragraphs (A) to (D) of this rule by placing the required information on every viewable web page of the website. In the alternative, maintaining a hyperlink on every viewable web page which links directly to a web page that contains the required information will satisfy the requirements of paragraphs (A) to (D) of this rule.~~
- ~~(G)~~ (D) ~~A registrant shall keep its website advertising current. A~~ It is a violation for a registrant ~~registrant shall update or have updated to fail to update its website advertising no later than~~ within thirty calendar days after any information becomes outdated or expired.

~~(H)~~(E) It is a violation for a registrant or licensee to place or cause to be placed any advertisement that contains any material misrepresentation regarding any term of a residential mortgage loan, including, ~~but not limited to~~:

- (1) Guaranteeing or implying that residential mortgage loans will be approved or closed in an unreasonably short period of time given market conditions at the time of the advertisement.
- (2) Indicating that special terms, reduced rates, guaranteed rates, particular rates or any other special feature of residential mortgage loans are available unless the advertisement clearly states any limitations that apply.
- (3) Using unqualified superlatives including, ~~but not limited to~~, "lowest rates," "lowest costs," "lowest payment plan," or "cheapest loans," or that makes offers that cannot be reasonably fulfilled or substantiated.
- (4) Using the words "new" or "reduced" or similar words in connection with costs for more than ninety days after the costs become effective.
- (5) Indicating that residential mortgage loans are available to borrowers with "previous bankruptcy," "no credit," "bad credit," or the like unless the advertisement clearly explains any limitations that apply, or states that "certain limitations apply, call for details." In any written advertisement, the actual limitations or the warning that "certain limitations apply, call for details" shall be clearly legible.
- (6) Using an official government design, format, symbol, logo, or seal unless its use is required or allowed by the governmental entity.
- (7) Using the name of a person or entity that confuses or misleads a borrower as to the true identity of the registrant placing or sending the advertisement regardless of any statement elsewhere in the advertisement identifying the true identity of the registrant or licensee.

~~(H)~~(F) A violation of 12 C.F.R. 1014.2, 1014.3, or 1014.4, as in effect on ~~January 12, 2014~~May 1, 2024, shall constitute a violation of this rule.

~~(J)~~(G) ~~Licensees~~The provisions in this rule apply to licensees employed by or associated with qualified exempt entities, ~~shall not place or cause to be placed, an advertisement that fails to comply with this rule.~~

~~(K)~~(H) Written or oral statements that are purely informational and not designed to effect or create interest in purchasing the services of a registrant or licensee are not subject to this rule.

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.46
Prior Effective Dates: 01/22/1995, 09/01/2006, 01/04/2016

1301:8-7-12

Operations manager.

- (A) A registrant shall grant sufficient authority to its operations manager to carry out the duty of ensuring that the daily operations and management of the registrant's business complies with all state and federal laws, rules, and regulations applicable to the transaction of mortgage broker business.
- (B) Only one individual ~~shall~~may be designated as operations manager regardless of the number of registered office locations or employees.
- (C) No individual shall act as an operations manager without being approved by the superintendent. An individual may be designated to act as an operations manager subject to the superintendent's approval. The registrant shall submit a completed "Application to change Mortgage Broker Operations Manager" form to the superintendent within ten business days of the designation.
- (D) To qualify for approval as an operations manager, the superintendent shall find that the individual possesses at least three years of experience in the mortgage and lending field that complies with paragraph (F) of this rule.
- (E) For purposes of demonstrating compliance with paragraph (D) of this rule and division ~~(A)(4)(B)~~ of section ~~1322.03~~1322.12 of the Revised Code, a registrant shall, along with the application referenced in paragraph (C) of this rule, submit satisfactory proof of experience for the individual designated to act as operations manager. Such proof shall include a current resume and may include, but is not limited to, the following:
- (1) A current resume;
 - ~~(1)(2)~~(2) Copies of IRS form W-2s for the tax years covering the experience requirement; and
 - ~~(2)(3)~~(3) A completed and signed release and authorization which enables the superintendent to verify the W-2s; and,
- The experience requirement in division (B) of section 1322.12 of the Revised Code may be verified by the division directly with the employer and tax authorities. The superintendent may request any additional documents or information that may be necessary to verify the experience requirement.
- ~~(3)~~ Other documents or information required by the superintendent necessary to verify completion of the experience requirement. The experience requirement may be verified by the division directly with the employer and tax authorities.
- (F) For purposes of paragraph (D) of this rule and division ~~(A)(4)(B)~~ of section ~~1322.03~~1322.12 of the Revised Code, the three years, or thirty-six months, of

experience shall have been gained lawfully within the six years preceding request for approval, but does not need to have been gained during consecutive months. The division counts each month toward the three year requirement. A fractional month of experience, at least twenty days long, qualifies as a full month. The experience may have been gained by directly soliciting, processing, placing and negotiating residential mortgage loans for or as a mortgage broker, or with a financial institution, mortgage lending institution, or other lending institution. The individual should have had direct contact and interaction with borrowers during all phases of making or brokering residential mortgage loans, and not compartmentalized experience in one phase of the process. Experience in all phases of processing, underwriting and closing or operations management is acceptable. Other experience related specifically to the business of residential mortgage lending may qualify, but will not include the following types of employment:

- (1) Real estate salesperson or broker;
- (2) Real estate appraiser;
- (3) Real estate developer or contractor;
- (4) Real estate owner or investor;
- (5) Commercial or consumer lender;
- (6) Title or escrow agent, owner or company;
- (7) Certified public accountant, public accountant, accountant, controller, comptroller, or fiscal officer;
- (8) Certified financial planner or similar designation;
- (9) Professor, teacher, or presenter of classes, courses, or seminars regarding mortgage lending;
- (10) Board member or senior officer of a financial or mortgage lending institution;
- (11) Shareholder, partner, or member of a financial or mortgage lending institution;
- (12) Insurance salesperson or broker;
- (13) Securities salesperson, broker, or principal;
- (14) Department store credit department, including retail and wholesale stores;
- (15) School, college, or university credit or student loan department;

- (16) Automobile, motorcycle, boat, or recreational vehicle dealer credit department.
 - (17) Mobile home or manufactured housing lending or credit department, unless acting as a licensed loan originator or mortgage loan originator.
- (G) Any individual who wishes to present experience or education which is not in accord with paragraphs (E) and (F) of this rule may petition the superintendent to consider alternative education or experience which the individual reasonably believes would satisfy the experience requirement. Such petition ~~shall~~should include documentation of the experience at issue and a detailed explanation of its relationship to residential mortgage lending activities.The determination of whether to accept alternative education or experience is within the sole discretion of the superintendent.
- (H) An individual designated as operations manager shall have passed the written test administered to mortgage loan originators. No separate written test for operations managers is required.

Effective: 9/1/2024

Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03

Statutory Authority: 1322.57

Rule Amplifies: 1322.09, 1322.20, 1322.10, 1322.27, 1322.28, 1322.12

Prior Effective Dates: 09/01/2006, 06/01/2007, 01/04/2016

1301:8-7-13

Division examinations and investigations.

- (A) The superintendent or authorized division personnel may conduct an examination in accordance with division (A) of section ~~1322.06~~1322.34 of the Revised Code or an investigation in accordance with division (B) of section ~~1322.10~~1322.50 of the Revised Code during normal business hours and as often as the superintendent determines appropriate. Examinations and investigations may be scheduled or unscheduled, announced or unannounced.
- (B) The superintendent or authorized division personnel shall be given free access to all offices, places of business, computers, books, papers, and records, whether electronic or hardcopy, in the possession, control or ownership of any registrant, qualified exempt entity, and their employees and licensees for the purpose of conducting an examination or investigation in accordance with Chapter 1322. of the Revised Code and this chapter.
- ~~(C) To increase the effectiveness of examinations and investigations and to ensure the purposes of Chapter 1322. of the Revised Code are being carried out, a registrant, qualified exempt entity, or licensee shall maintain office hours from nine a.m. to five p.m. on the second Thursday of the following months: February, April, June, August, October, and December. Should the superintendent or authorized division personnel appear at the office of a registrant, qualified exempt entity, or licensee to conduct an examination or investigation at any time between nine a.m. to five p.m. on any of these six days and be denied access to any office, record or file for any reason, such denial may be considered a violation of division (A) of section 1322.072 of the Revised Code.~~
- ~~(D)~~(C) As part or in furtherance of any examination or investigation conducted in accordance with Chapter 1322. of the Revised Code or this rule chapter, if the superintendent or authorized division personnel requests a written response, or the submission of books, papers, and records, whether electronic or hardcopy, or any other information, the applicant, registrant, qualified exempt entity, licensee, or person shall deliver a written response and any requested information within the time period specified in the request. If no time period is specified, the written response and any required submissions shall be delivered to the superintendent not later than thirty days after the date of such request. The determination of whether any response is satisfactory is within the sole discretion of the superintendent.
- ~~(E) Written responses submitted pursuant to paragraph (D) of this rule must address the issues raised by the examination or investigation to the superintendent's satisfaction.~~

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.34, 1322.50, 1322.35
Prior Effective Dates: 09/01/2006, 01/04/2016

1301:8-7-14

Surety bonds.

- (A) With respect to a bond obtained by a registrant, or by a qualified exempt entity or loan processing or underwriting company in the same manner as a registrant, the following shall apply:
- (1) The surety bond required by section ~~1322.05~~1322.32 of the Revised Code shall be on a form acceptable to the superintendent.
 - (2) The surety bond must be issued in the name of the registrant, qualified exempt entity, or loan processing or underwriting company and list the main office of the registrant, qualified exempt entity, or loan processing or underwriting company. If a trade or fictitious name is used, the trade or fictitious name shall be included on the bond.
 - (3) One surety bond in the appropriate aggregate amount shall be required to cover a registrant, qualified exempt entity, or loan processing or underwriting company regardless of the number of registered or exempted office locations. An endorsement rider may be used to increase or decrease the amount of the bond whenever an office location is established or closed.
 - (4) Whenever the penal sum of the surety bond is reduced below the required amount, the registrant, qualified exempt entity, or loan processing or underwriting company and licensees employed by or associated with them shall immediately cease originating residential mortgage loans until the bond has been restored to the full required value. Failure to restore the bond to the full required value within thirty days of the first date the penal sum of the bond was reduced is grounds for a fine, suspension, refusal to renew or revocation of the registrant's certificate of registration or a qualified exempt entity's or loan processing or underwriting company's approved letter of exemption.
- (B) No licensee shall perform the clerical or support duties of a loan processor or underwriter ~~as described in 12 U.S.C. 5102(4)(B), as in effect on January 12, 2014,~~ in this state as an employee of a loan processing or underwriting company or as an independent contractor, unless either the licensee, or the loan processing or underwriting company on the licensee's behalf, has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state.
- (C) With respect to an individual bond obtained by a licensee employed by or associated with a qualified exempt entity, by a licensee employed by a loan processing or underwriting company on a licensee's behalf, or by a licensee acting as an independent contractor performing clerical or support duties of a loan processor or underwriter ~~as~~

~~described in 12 U.S.C. 5102(4)(B), as in effect on January 12, 2014,~~ the following shall apply:

- (1) The surety bond required by section ~~1322.05~~1322.32 of the Revised Code shall be on a form acceptable to the superintendent;
- (2) The surety bond must be issued in the name of the licensee and state the home address of the licensee as listed in the licensee's NMLS account.

(D) The surety bond required by division (A)(1) of section 1322.32 of the Revised Code shall be in the penal sum of one-half per cent of the aggregate loan amount of all residential mortgage loans originated within and outside this state in the immediately preceding calendar year, but not exceeding one hundred fifty thousand dollars.

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.32
Prior Effective Dates: 09/01/2006, 01/04/2016

1301:8-7-15

Disclosures.

The affiliated business disclosure referenced in division (A)(1) of section 1322.42 of the Revised Code shall comply with 12 C.F.R. 1024.15(b), as in effect May 1, 2024, and be made in conformity with the timing specified in 12 C.F.R. 1024.15(b)(1), as in effect May 1, 2024.

Replaces: 1301:8-7-15
Effective: 9/1/2024
Five Year Review (FYR) Dates: 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.42
Prior Effective Dates: 06/01/2007, 01/04/2016

TO BE RESCINDED

1301:8-7-15 **Disclosures.**

- (A) The "Mortgage Loan Origination Disclosure Statement" shall be on a form which conforms to the model form posted on the division of financial institution's web site.
- (B) As used in division (A)(1)(f) of section 1322.062 of the Revised Code, "the fee to be paid by the buyer to the registrant" means any and all compensation the registrant receives from the buyer, but does not include any fees collected by registrants from buyers on behalf of bona fide third party service providers.
- (C) Timely disclosures.
- (1) As used in division (B) of section 1322.062 and division (B) of section 1322.064 of the Revised Code, the phrase "twenty-four hours after the change occurs" shall not include Sundays and national holidays.
- (2) In order to document that disclosures required by division (B) of section 1322.062, division (A) of section 1322.063, divisions (A)(1) and (A)(2) of section 1322.064, and division (A) of 1322.075 of the Revised Code are made to the borrower in a timely manner, the registrant or licensee shall do one of the following:
- (a) Obtain the signature of the borrower on a dated statement in which the borrower acknowledges the time and date that notification of the changes was received;
- (b) Maintain a record by time-dated facsimile that the disclosures were provided by fax to and received by the borrower;
- (c) Maintain a record by time-dated computer e-mail that the disclosures were provided by e-mail to and received by the borrower; or
- (d) Maintain a record by time-dated overnight, express, or certified mail that the disclosures were provided by such mail and received by the borrower.
- (D) The disclosures required by section 1322.064 of the Revised Code shall be provided on a form acceptable to the superintendent which substantially conforms with the model form posted on the division's web site. As an alternative to providing the foregoing model form, the registrant or licensee may provide the federal revised good faith estimate (or revised loan estimate on or after August 1, 2015), and documentation of the reason for the revised good faith estimate (or revised loan estimate), as required by 12 C.F.R. 1024.7(f), as in effect on January 12, 2014. The acceptance of the alternative federal forms in lieu of the model state form for this disclosure does not

alter the time within which the disclosure must be provided as set forth in division (B) of section 1322.064 of the Revised Code and paragraph (C) of this rule. If, however, the mortgage broker fees change, then the change must be disclosed by the provision of a revised mortgage loan origination disclosure statement as required by division (B) of section 1322.062 of the Revised Code in addition to any other disclosures that may be required by state or federal law.

- (E) The affiliated business disclosure required by division (A) of section 1322.075 of the Revised Code shall be provided on a form acceptable to the superintendent which substantially conforms with the model form posted on the division's web site. As an alternative to providing the foregoing model form, the registrant or licensee may provide the affiliated business arrangement disclosure statement format notice required by 12 C.F.R. 1024.15(b), as in effect on January 12, 2014. The timing of the disclosure required by division (A) of section 1322.075 of the Revised Code shall be made in conformity with the timing specified in 12 C.F.R. 1024.15(b)(1), as in effect on January 12, 2014.

Effective: 9/1/2024

Five Year Review (FYR) Dates: 6/17/2024

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.12
Rule Amplifies: 1322.062, 1322.064, 1322.075
Prior Effective Dates: 06/01/2007, 01/04/2016

1301:8-7-16

Prohibited practices.

~~As used in division (C) of section 1322.07 of the Revised Code, conduct~~ Conduct that constitutes improper, fraudulent, or dishonest dealings under division (C) of section 1322.40 of the Revised Code includes, ~~but is not limited to~~ the following:

- (A) Failing to return all original documents provided to the registrant or licensee by the borrower;
- (B) Permitting an unlicensed individual to originate residential mortgage loans;
- (C) Sharing or splitting any commission, discount, fee or other compensation for originating a residential mortgage loan with a person who is not licensed or registered under Chapter 1322. of the Revised Code but who should be licensed or registered;
- (D) Knowingly aiding, abetting, or conspiring with a person to circumvent the requirements of Chapter 1322. of the Revised Code or this rule chapter;
- (E) Recommending or encouraging default or delinquency or continuation of an existing default or delinquency by a borrower on any existing indebtedness prior to closing a residential mortgage loan which refinances all or a portion of such existing indebtedness;
- (F) Promising to refinance a residential mortgage loan in the future at a lower interest rate or with more favorable terms;
- (G) Materially underestimating closing costs;
- (H) Depositing any residential mortgage loan disbursement check that is not made payable to the registrant, qualified exempt entity or licensee;
- (I) Abandoning or improperly disposing of loan files containing financial and mortgage information of borrowers;
- (J) Refusing or failing to fund a consummated loan, other than when an borrower rescinds the loan in accordance with 12 C.F.R. 1026.15 or 1026.23 (relating to the right of rescission), as in effect on ~~January 12, 2014~~ May 1, 2024; ~~or~~
- (K) Evading the limits on points and fees for qualified mortgages set forth in 12 C.F.R. 1026.43(e)(3), as in effect on May 1, 2024, by conducting business in conjunction with a person registered or who should be registered pursuant to Chapter 4712. of the Revised Code. Assisting a borrower with improving his or her credit record, history, or rating as well as removing adverse credit information are considered part of the normal activities of a registrant or qualified exempt entity; or

~~(K)~~(L) Any other conduct the superintendent determines constitutes improper, fraudulent, or dishonest dealings.

Replaces: 1301:8-7-02
Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.40
Prior Effective Dates: 01/22/1995, 09/01/2006, 06/01/2007, 01/04/2016

1301:8-7-18

Continuing education.

- (A) In accordance with division (C)(2) of section ~~1322.052~~1322.28 of the Revised Code, a licensee or applicant to become a licensee shall be permitted to receive credit for a continuing education course in a year other than the year in which the course is taken in order to make up a deficiency in continuing education.
- (B) A licensee or applicant to become a licensee shall make up any continuing education deficiency that occurred on or after January 1, 2010, regardless of the number of years that have passed since the violation.
- (C) ~~The superintendent shall comply with paragraph~~Paragraph (D) of rule 1301-1-04 of the Administrative Code, which permits an extension of the current continuing education reporting requirement for veterans meeting all of the criteria set forth in that rule, applies to the continuing education requirements in section 1322.28 of the Revised Code.

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.28
Prior Effective Dates: 09/01/2006, 06/01/2007, 01/04/2016

1301:8-7-19

Notification requirements.

The notification requirements in this administrative rule shall be made via the NMLS unless otherwise indicated. If notice of a change is required to be made before its effective date, the registrant or qualified exempt entity shall submit an "advance change notice" via the NMLS.

- (A) A registrant or qualified exempt entity shall notify the superintendent at least fifteen days before the sale, transfer, or hypothecation of more than five per cent of the registrant's or qualified exempt entity's membership, partnership, or other equitable, beneficial, or ownership interest.
- (B) A registrant or qualified exempt entity shall notify the superintendent at least fifteen days before changing any officers, control persons, or five per cent or more direct owners. New officers, control persons or five per cent or more direct owners that are individuals must be fingerprinted for the compilation of a criminal history background report by the federal bureau of investigation.
- (C) A registrant or qualified exempt entity shall notify the superintendent at least fifteen days before changing its name, trade name, or fictitious name.
- (D) A registrant or qualified exempt entity shall notify the superintendent at least fifteen days before changing the name or address of its statutory agent on file with the Ohio secretary of state.
- (E) A registrant or qualified exempt entity shall notify the superintendent of a change of any office location listed on any of its certificates of registration or letters of exemption at least fifteen days before such change, and shall submit all of the following to the superintendent by uploading the documentation into its NMLS account or sending it directly to the division via mail:
 - (1) A copy of the lease or rental agreement for the new location or proof that the registrant or qualified exempt entity owns the new location;
 - (2) An updated surety bond, rider or endorsement reflecting the new address if its main office location has changed;
- (F) A registrant or qualified exempt entity shall notify the superintendent of the termination of a licensee by removing its sponsorship of the licensee via the NMLS no later than five business days after the licensee's employment or association has been terminated.
- (G) A registrant or qualified exempt entity shall notify the superintendent of the closure of any office location listed on a certificate of registration or letter of exemption no later than fifteen days after the closure. The registrant or qualified exempt entity

shall identify the custodian of the records and the location where the records will be maintained in compliance with rule 1301:8-7-06 of the Administrative Code.

- (H) A licensee shall notify the superintendent of a legal name change no later than fifteen days after such change and shall provide to the superintendent a copy of the name change order. Once the superintendent has issued a new license with the licensee's new name, the licensee shall not originate loans using the prior name.
- (I) A person notifying the superintendent of a criminal conviction, guilty or nolo contendere plea, or revocation of the authority to act as a mortgage lender, mortgage servicer, mortgage broker, or mortgage loan originator in accordance with division (D) of section ~~1322.07~~ 1322.40 of the Revised Code shall submit a completed "Notification of Guilty Plea, Conviction or Revocation" form located on the division's website. The form shall be accompanied by a certified copy of the final judgment entry and supporting opinion, if any.
- ~~(J) A registrant, qualified exempt entity, or licensee notifying the superintendent of the filing of an action or judgment pursuant to division (B)(1)(a) or (B)(1)(b) of section 1322.05 of the Revised Code shall submit a completed "Notification of Action or Judgment" form located on the division's website. The form shall be accompanied by a certified copy of the final judgment entry and supporting opinion, if any.~~

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.07, 1322.16, 1322.05, 1322.20, 1322.32, 1322.40
Prior Effective Dates: 09/01/2006, 06/01/2007, 01/04/2016

1301:8-7-20

Compensation.

(A) Compensation of any kind paid to a licensee employed by or associated with a registrant or qualified exempt entity shall be: ~~paid~~

(1) Paid by check or electronic draft; ~~drawn on an account of the registrant or qualified exempt entity. Registrants shall not pay compensation from the special account maintained pursuant to section 1322.08 of the Revised Code. Compensation to a licensee may be paid on an account of a third party payroll administrator acting as the registrant's or qualified exempt entity's agent. The check or electronic draft must be written to the licensee in the licensee's legal name.~~

(2) Paid from the account of the registrant or qualified exempt entity, or account of a third party payroll administrator acting as the registrant's or qualified exempt entity's agent; and

(3) Paid or made payable to the licensee in the licensee's legal name.

(B) A registrant or qualified exempt entity may compensate a licensee or former licensee in accordance with paragraph (A) of this rule after the expiration, cancellation, surrender, or transfer of the individual's license only for those origination activities performed while the individual was sponsored by the registrant or qualified exempt entity via the NMLS, provided the registrant or qualified exempt entity shall document to the superintendent's satisfaction that such compensation was for origination activities occurring during such sponsorship.

(C) A registrant or qualified exempt entity shall not pay compensation of any kind to a loan processor or to any individual in a manner designed to circumvent the licensing requirement of division (B)(1) of section 1322.02 of the Revised Code.

(D) Registrants, qualified exempt entities, and licensees shall comply with the loan originator compensation regulations set forth in 12 C.F.R. part 1026, as in effect on ~~January 12, 2014~~ May 1, 2024.

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.01, 1322.07, 1322.40
Prior Effective Dates: 09/01/2006, 06/01/2007, 01/04/2016

1301:8-7-21

Character, general fitness, and financial responsibility.

- (A) In determining whether a person has the character and general fitness to command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of Chapter 1322. of the Revised Code and the rules adopted thereunder, the superintendent may consider, among other things, whether the person or an owner, officer or director thereof, has:
- (1) Been convicted of, or pled guilty or nolo contendere in any court of competent jurisdiction to any felony;
 - (2) Been convicted of, or pled guilty or nolo contendere in any court of competent jurisdiction to any misdemeanor within seven years of the date of application;
 - (3) Been found liable in any court of competent jurisdiction for acts or omissions relating to residential or commercial mortgage lending services, real estate services, or any other financial products or services;
 - (4) Been refused or denied a professional registration or license by any state or federal agency granted disciplinary or regulatory authority by state or federal law;
 - (5) Had a professional license or registration suspended or revoked by any state or federal agency granted disciplinary or regulatory authority by state or federal law, including ~~but not limited to,~~ being placed on the HUD limited denials of participation list pursuant to 2 C.F.R. part 2424, as in effect on January 12, 2014;
 - (6) Been issued a cease and desist order or had a fine imposed by any court of competent jurisdiction or by any state or federal agency granted disciplinary or regulatory authority by state or federal law for conduct relating to a professional license or registration;
 - (7) Violated any provision of Chapter 1321., 1322., 4712., 4727., or 4728. of the Revised Code or sections 1315.21. to 1315.30, 1345.031, or 1349.25 to section 1349.35 of the Revised Code or any rules promulgated thereto;
 - (8) Engaged in any conduct which would reflect negatively on the honesty or business repute of the person, including, ~~but not limited to,~~ the failure to provide complete and accurate information concerning the person's past; or
 - (9) A pattern of disregard of the laws of this state, another state, or the United States.
- (B) In determining whether a person has the financial responsibility to command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of Chapter 1322. of the Revised

Code and the rules adopted thereunder, the superintendent may consider, among other things, whether the person, or an owner, officer or director thereof, has:

- (1) Any current outstanding civil or criminal judgments for money, restitution, or damages of any kind;
- (2) Any current outstanding tax liens or other government liens;
- (3) A foreclosure filed within the past five years whether residential or commercial;
- (4) A bankruptcy filed within the past five years;
- (5) Any current accounts that are past due, in collection, or charged off, and which in the aggregate exceed five thousand dollars.

(C) In assessing financial responsibility pursuant to paragraph (B) of this rule, the superintendent may consider mitigating factors, including, ~~but not limited to:~~

- (1) Involuntary loss of job or income;
- (2) Divorce;
- (3) Involuntary medical expenses incurred by the person or the person's spouse or dependent;
- (4) Certified copies of satisfactions of judgments, tax liens or other government liens;
- (5) Certified copies of bankruptcy discharge orders, schedules, or dismissal documents;
- (6) Written evidence of a repayment plan or agreement with creditors; or
- (7) Any other information the superintendent believes reflects circumstances beyond the control of the person.

~~(D) The superintendent shall not consider a bankruptcy as the sole basis for a finding that a person lacks the required financial responsibility; however, the superintendent may consider the facts and circumstances that lead to a bankruptcy.~~

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.09, 1322.20, 1322.10, 1322.21
Prior Effective Dates: 09/01/2006, 06/11/2007, 01/04/2016

1301:8-7-22

Trade names, fictitious names and change of names.

- (A) A registrant or qualified exempt entity may, with the prior approval of the superintendent, use a trade name or fictitious name, provided:
- (1) The trade name or fictitious name complies with division (A)(1) of section 1101.15 of the Revised Code; and
 - (2) The trade name is registered with or the fictitious name is reported to the Ohio secretary of state in accordance with Chapter 1329. of the Revised Code.
- (B) The superintendent may refuse to issue a certificate of registration or letter of exemption to use a name, trade name or fictitious name if the superintendent believes that such name would create a substantial risk of misleading or confusing the public.
- (C) In closing documents and in any disclosures made pursuant to Chapter 1322. of the Revised Code or this rule chapter, a registrant or qualified exempt entity shall use the same name, trade name, or fictitious name that it has used during all of its contacts with the borrower involved in the transaction.
- (D) A registrant or qualified exempt entity may change its name, trade name, or fictitious name, provided:
- (1) It complies with paragraphs (A) and (B) of this rule;
 - (2) It submits proof that the surety bond has been issued in the new name unless, in the case of a qualified exempt entity, the bond is obtained by individual ~~loan originators~~ mortgage loan originators; and
 - (3) It has given the superintendent prior notice in accordance with paragraph (C) of rule 1301:8-7-19 of the Administrative Code.

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.40, 1322.46
Prior Effective Dates: 09/01/2006, 01/04/2016

1301:8-7-23

Mortgage broker appraisal misconduct.

(A) A violation of division (G) of section ~~4322.07~~1322.40 of the Revised Code may include; ~~but is not limited to~~, the following:

- (1) In the case of any refinance of a residential mortgage loan or non-purchase second residential mortgage loan, a person states on the appraisal order form or communicates, directly or indirectly, to any person licensed or certified under Chapter 4763. of the Revised Code either the loan amount or any other express or implied statement of the anticipated or desired appraisal value;
- (2) In the case of any purchase money residential mortgage loan including any second residential mortgage loan connected to a sale transaction, a person states on the appraisal order form or communicates, directly or indirectly, to any person licensed or certified under Chapter 4763. of the Revised Code either the loan amount or any other express or implied statement of the anticipated or desired appraisal value. ~~The foregoing sentence does not prohibit~~However, it is not a violation if the sales price of the property ~~from being~~is disclosed or ~~providing a~~is provided copy of the signed purchase contract to a person licensed or certified under Chapter 4763. of the Revised Code;

(B) If a registrant or licensee becomes aware that a borrower and seller have entered into a previous purchase contract for a property at a lower price within the previous thirty days, the registrant or licensee shall inform the person licensed or certified under Chapter 4763. of the Revised Code of the earlier contract and provide a copy of the contract which shall be appended to any appraisal the registrant or licensee provides to the lender or anticipated purchaser of the note.

(C) Nothing herein shall prevent a registrant, its employees, agents or licensees from:

- (1) Requesting in writing or by electronic transmittal that the person licensed or certified under Chapter 4763. of the Revised Code who prepared the appraisal report consider additional appropriate information when acting upon a good faith belief that the appraisal contains an error or is professionally deficient. Any appraisal review or revision request cannot be based on the grounds that the valuation is not high enough to qualify the borrower for the proposed residential mortgage loan; or
- (2) Communicating information to a person licensed or certified under Chapter 4763. of the Revised Code that is required by state or federal law, or by any applicable appraisal standards including, without limitation, a copy of a previously completed appraisal report provided to a person licensed or certified under Chapter 4763. of the Revised Code for the purpose of an appraisal review.

Effective: 9/1/2024

Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.40
Prior Effective Dates: 06/01/2007, 01/04/2016

1301:8-7-26

Challenge to information maintained in the NMLS.

- (A) For purposes of division (H) of section ~~1322.06~~1322.36 of the Revised Code, an individual who has applied for, holds, or held a ~~loan originator~~mortgage loan originator license may challenge information entered into the NMLS by the superintendent. Such challenge shall be in writing and must set forth the specific information being challenged and include supporting evidence. The grounds for a challenge shall be limited to the accuracy of the information entered into the NMLS by the superintendent, controlled by the superintendent, and pertaining to the individual's own license record. An individual shall not challenge substantive allegations, findings of fact or conclusions of law in prior orders issued by the superintendent or other disciplinary actions. Challenges are limited to clerical errors.
- (B) The superintendent shall review the information submitted by the individual. If the superintendent determines that the information entered into the NMLS is incorrect, the superintendent shall enter the correct information and notify the individual in writing that the information has been corrected. If the superintendent determines that the information entered into the NMLS is correct, the superintendent shall notify the individual in writing of the reasons for this determination and that the information will not be changed.
- (C) The determination of the superintendent is final and not subject to further challenge pursuant to this rule or appeal pursuant to Chapter 119. of the Revised Code.

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57, 1322.36(H)
Rule Amplifies: 1322.36
Prior Effective Dates: 01/04/2016

TO BE RESCINDED

1301:8-7-27

Expedited hearing upon automatic suspension.

An order of suspension issued pursuant to division (F) of section 1322.10 of the Revised Code shall set a date, not more than thirty days later than the date of the order of suspension, for a hearing on the continuation or termination of such suspension. For good cause shown, the superintendent may continue such hearing on its own motion or the motion of the registrant or licensee.

Effective: 9/1/2024

Five Year Review (FYR) Dates: 6/17/2024

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.12, 1322.10(F)(3)
Rule Amplifies: 1322.10
Prior Effective Dates: 06/01/2007, 01/04/2016

TO BE RESCINDED

1301:8-7-30 **Temporary loan originator license application.**

- (A) Pursuant to division (C) of section 1322.042 of the Revised Code, the application for a temporary loan originator license shall be accompanied by a nonrefundable application fee of one hundred fifty dollars and all other required fees, including any fees required by the "Nationwide Mortgage Licensing System and Registry."
- (B) A temporary loan originator license shall be valid for ninety days from the date of issuance. The superintendent of financial institutions may extend the expiration of the temporary license an additional thirty days upon receiving a written request from the temporary loan originator at least five business days prior to the expiration date on the license.
- (C) The term of a temporary loan originator license begins on the issuance date and ends on the expiration date as printed on the temporary license.
- (D) For purposes of evaluating an applicant's experience in the field of residential mortgage lending, the superintendent shall consider the same proof and experience as set forth in paragraphs (F) and (G) of rule 1301:8-7-12 of the Administrative Code, except that the applicant must have at least two years of experience in the field of residential mortgage lending in the five years immediately preceding the date of application.

Effective: 9/1/2024

Five Year Review (FYR) Dates: 6/17/2024

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.042(F)
Rule Amplifies: 1322.042
Prior Effective Dates: 06/07/2013, 01/04/2016

1301:8-7-31

Nonprofit Bona fide nonprofit organizations exemption.

(A) In addition to the criteria set forth in division ~~(G)(2)(i)~~(F)(1) through (6) of section 1322.01 of the Revised Code, a bona fide nonprofit organization is exempt from registration if it does all of the following~~also required to:~~

(1) Be registered and maintain current registration status with the Charitable Law Section of the Ohio Attorney General's Office; or

(2) Possess a valid letter of exemption from the Charitable Law Section of the Ohio Attorney General's Office.

~~(1) Promotes affordable housing or provides homeownership education;~~

~~(2) Conducts its activities in a manner that serves the public or charitable purposes, rather than commercial purposes;~~

~~(3) Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients;~~

~~(4) Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients; and~~

~~(5) Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loan and housing assistance provided under government housing assistance programs.~~

(B) An organization seeking a letter of exemption as a bona fide nonprofit organization
~~The burden of proving the exemption pursuant to division (F)(7) of section 1322.014 of the Revised Code is~~has on the nonprofit organization the burden of establishing entitlement to the letter of exemption.

(C) ~~The nonprofit organization~~An organization seeking a letter of exemption shall be responsible for paying any applicable fees and submit~~submitting~~an application for a letter of exemption via the NMLS for each office where residential mortgage loans are originated for Ohio residents, Ohio property, or from a location physically in Ohio regardless of the location of the borrowers or property. The applicant shall be responsible for any fee required by the NMLS.

(D) The application shall include books, records, and any additional information the superintendent deems necessary to substantiate that the applicant meets the criteria in division (G)(2)(i) of section 1322.01 of the Revised Code and paragraph (A) of this rule. The applicant shall submit documentation that it has complied with the requirements of 12 C.F.R. 1026.36(f)(3), as in effect on ~~January 12, 2014~~May 1, 2024, for all employees acting as a ~~loan originator~~mortgage loan originator for

Ohio residents, Ohio property, or from a location physically in Ohio regardless of the location of the borrowers or property. If the superintendent determines that the nonprofit organization has met the aforementioned criteria and requirements, the superintendent shall issue a letter of exemption to the nonprofit organization which shall expire on the thirty-first day of December and may be renewed on or before that date by submitting a renewal application via the NMLS and providing all of the documentation required by this paragraph.

(E) The nonprofit organization shall keep and maintain records of all residential mortgage loan transactions in the same manner as is required of registrants.

(F) ~~The~~In accordance with rule 1301:8-7-13 of the Administrative Code, the superintendent ~~may shall~~ examine the books and records of the bona fide nonprofit organization periodically to determine if it continues to meet all of the criteria in division ~~(E)(G)(2)(i)~~ of section 1322.01 of the Revised Code ~~and paragraph (A) of this rule. Examinations shall be conducted in accordance with rule 1301:8-7-13 of the Administrative Code.~~

~~(G) If the superintendent determines that the nonprofit organization does not qualify for the exemption, the nonprofit organization shall immediately cease originating residential mortgage loans until such time as it has obtained a certificate of registration. Failure to cease originating residential mortgage loans without a certificate of registration or loan originator license is a violation of Chapter 1322. of the Revised Code and may be subject to administrative, civil and criminal penalties.~~

~~(H)~~(G) An employee of a nonprofit organization that holds a valid letter of exemption is exempt from having to obtain a ~~loan originator~~mortgage loan originator license only with respect to his or her work duties to the nonprofit organization and only with respect to residential mortgage loans with terms that are favorable to the borrower.

Effective: 9/1/2024
Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.01, 1322.04
Prior Effective Dates: 01/04/2016

1301:8-7-32

~~Loan processors and underwriters~~ Loan Processing or underwriting companies.

(A) For purposes of division (AA)(2)(h) of section 1322.01 of the Revised Code, "loan processing or underwriting company" means an entity that performs only clerical or support duties for one or more unaffiliated registrants or qualified exempt entities.

(B) For purposes of division (AA)(2)(h) of section 1322.01 of the Revised Code, "employee" means an individual for whom the loan processing or underwriting company, in addition to providing a wage or salary, pays social security and unemployment taxes, provides workers' compensation coverage, and withholds local, state, and federal income taxes. Nothing herein prohibits a loan processing or underwriting company from entering into an agreement with a professional employer organization as that term is defined in division (D) of section 4125.01 of the Revised Code, provided the loan processing or underwriting company retains all direction and control over its shared employees' performance of clerical or support duties.

~~(A) In accordance with 12 U.S.C. 5103(b)(2), as in effect on January 12, 2014, an independent contractor shall not perform the clerical or support duties as defined in 12 U.S.C. 5102(5)(B), as in effect on January 12, 2014, of a loan processor or underwriter for residential mortgage loans involving property in this state without first having obtained a loan originator license issued pursuant to Chapter 1322. of the Revised Code.~~

~~(B) An individual who performs only clerical or support duties as defined in 12 U.S.C. 5102(5)(B) is not required to obtain a loan originator license if both of the following apply:~~

~~(1) The individual is an employee of a registrant, qualified exempt entity, depository institution, or loan processing or underwriting company that holds a valid letter of exemption issued pursuant to this rule;~~

~~(2) The individual performs such clerical or support duties at the direction of and subject to the supervision and instruction of either a licensee employed by or associated with the same registrant, qualified exempt entity, or loan processing or underwriting company, or a registered loan originator employed by the same depository institution.~~

(C) The ~~A~~ loan processing or underwriting company seeking a letter of exemption from registration pursuant to division (AA)(2)(h) of section 1322.01 of the Revised Code shall be responsible for paying any applicable fees and submit ~~submitting~~ an application for a letter of exemption via the NMLS for its main office location before engaging in the activities of a loan processor or underwriter for residential mortgage

loans involving property in this state. ~~The applicant shall be responsible for any fee required by the NMLS.~~

- (D) The application shall be in a form prescribed by the superintendent and shall include all of the following:
- (1) The loan processing or underwriting company's business name and state of incorporation or business registration;
 - (2) The names of the owners, officers, members, or partners having control of the loan processing or underwriting company;
 - (3) The names of all licensees employed by the the loan processing or underwriting company;
 - (4) An attestation stating all of the following:
 - (a) All employees who perform clerical or support duties are either licensees or ~~they~~ perform only clerical or support duties at the direction of and subject to the supervision and instruction of a licensee employed by the same loan processing or underwriting company.
 - (b) The licensees assign, authorize, and monitor every loan processor or underwriter employee's performance of clerical or support duties.
 - (c) The licensees exercise traditional supervisory responsibilities, including, ~~but not limited to,~~ training, mentoring, and evaluation of every loan processor or underwriter employee.
 - (d) The loan processing or underwriting company always performs clerical or support duties for others pursuant to a written contract.
 - (e) No licensee or employee of the loan processing or underwriting company is also a licensee or employee of any entity for whom it performs clerical or support duties.
 - (5) A surety bond for all licensees which may be issued in the same manner as is permitted for registrants;
 - (6) An acknowledgment of understanding that the loan processing or underwriting company is subject to the regulatory authority of the division of financial institutions;
 - (7) Any further reasonable information that the superintendent may require.

- (E) If the superintendent determines that the loan processing or underwriting company fully and honestly made the attestation required under paragraph (D)(4) of this rule completed the application process and otherwise qualifies for exemption, the superintendent shall issue a letter of exemption which shall expire on the thirty-first day of December and may be renewed on or before that date by submitting an application that meets the requirements of paragraph (D) of this rule.
- (F) The burden of proving the exemption is on the loan processing or underwriting company.
- (G) The loan processing or underwriting company shall keep and maintain records of all residential mortgage loan transactions for the portion of the transaction it conducts in the same manner as is required of registrants, as provided in division (B) of section 1322.34 of the Revised Code and rule 1301:8-7-06 of the Administrative Code.
- (H) The superintendent may, in accordance with rule 1301:8-7-13 of the Administrative Code, examine the books and records of the loan processing or underwriting company as often as the superintendent deems necessary for the purpose of substantiating the loan processing or underwriting company's exempt status. ~~Examinations shall be conducted in accordance with rule 1301:8-7-13 of the Administrative Code.~~
- ~~(I) If the superintendent determines that the loan processing or underwriting company does not qualify for the exemption, the loan processing or underwriting company shall immediately cease engaging in loan processing or underwriting activities for residential mortgage loans involving property in this state. Failure to cease engaging in loan processing or underwriting activities without a valid letter of exemption is a violation of Chapter 1322. of the Revised Code and may be subject to administrative, civil or criminal actions.~~
- ~~(J)~~(I) An employee of a loan processing or underwriting company that holds a valid letter of exemption may perform clerical or support duties from any location provided a licensee of the same loan processing or underwriting company maintains adequate supervision of the loan processor's or underwriter's performance, including, ~~but not limited to,~~ training, mentoring, and evaluation of the loan processor or underwriter.
- ~~(K)~~(J) An employee of loan processing or underwriting company that holds a valid letter of exemption is exempt from having to obtain a loan originator mortgage loan originator license only with respect to the clerical or support duties performed for such ~~independent contractor or~~ loan processing or underwriting company.
- ~~(L)~~(K) ~~An independent contractor, or a licensee or~~ An employee of a loan processing or underwriting company shall not also be employed by or associated with any entity

for whom ~~the~~ the loan processing or underwriting company performs clerical or support duties.

~~(M)~~(L) ~~In order to reduce the risk of consumer fraud and related harms, including identity theft, independent contractors and~~ A loan processing or underwriting companies company performing clerical or support duties shall be required to comply with section 216 of the "Fair and Accurate Credit Transactions Act of 2003," 117 Stat. 1952 (amended 2010), rules promulgated under 15 U.S.C. 1681w, as in effect on January 12, 2014, section 501 of the "Gramm Leach Bliley Act," 113 Stat. 1338 (1999) (amended 2010); and 15 U.S.C. 6801, as in effect on January 12, 2014, and the rules promulgated pursuant to those federal acts, including 16 C.F.R. part Part 313 and 16 C.F.R. part Part 682, as those rules are in effect January 12, 2014, pertaining to the maintenance, security, and disposal of consumer information and recordsMay 1, 2024.

~~(N)~~ "At the direction of and subject to the supervision and instruction of" means all of the following:

- ~~(1)~~ The individual performing clerical or support duties meets the definition of "employee" set forth in paragraph (O) of this rule;
- ~~(2)~~ The supervisory individual directing, supervising and instructing the loan processor or underwriter employee shall be an individual listed in paragraph (P)(1) to (P)(5) of this rule;
- ~~(3)~~ The supervisory individual assigns, authorizes, and monitors the loan processor or underwriter employee's performance of clerical or support duties;
- ~~(4)~~ The supervisory individual exercises traditional supervisory responsibilities, including, but not limited to, the training, mentoring, and evaluation of the loan processor or underwriter employee.

~~(O)~~ For purposes of this exemption, "employee" means an individual for whom the loan processing or underwriting company, in addition to providing a wage or salary, pays social security and unemployment taxes, provides workers' compensation coverage, and withholds local, state, and federal income taxes. ~~Nothing herein prohibits a loan processing or underwriting company from entering into an agreement with a professional employer organization as that term is defined in division (D) of section 4125.01 of the Revised Code, provided the loan processing or underwriting company retains all direction and control over its shared employees' performance of clerical or support duties.~~

~~(P) "Independent contractor" means an individual who performs the clerical or support duties as defined in 12 U.S.C. 5102(5)(B), as in effect on January 12, 2014, of a loan processor or underwriter other than at the direction of and subject to the supervision and instruction of any of the following individuals:~~

~~(1) An individual licensed as a loan originator pursuant to Chapter 1322. of the Revised Code;~~

~~(2) An individual licensed as a mortgage loan originator pursuant to sections 1321.51 to 1321.60 of the Revised Code;~~

~~(3) An individual licensed as a registered loan originator as defined in division (I) of section 1322.01 of the Revised Code;~~

~~(4) An individual licensed as a registered mortgage loan originator as defined in division (S) of section 1321.51 of the Revised Code;~~

~~(5) An individual who is not required to be licensed pursuant to paragraph (I)(2)(a) of this rule 1301:8-7-01 (government employees exclusion) or paragraph (H) of rule 1301:8-7-31 (nonprofit exclusion) of the Administrative Code.~~

~~(Q) "Loan processing or underwriting company" means a person, other than an independent contractor, registrant, or qualified exempt entity, who performs only clerical or support duties as defined in 12 U.S.C. 5102(5)(B), as in effect on January 12, 2014, of a loan processor or underwriter for one or more unaffiliated registrants, qualified exempt entities, or entities exempt from registration pursuant to division (G)(2)(b) of section 1322.01 of the Revised Code.~~

Effective: 9/1/2024

Five Year Review (FYR) Dates: 6/17/2024 and 09/01/2029

CERTIFIED ELECTRONICALLY

Certification

08/22/2024

Date

Promulgated Under: 119.03
Statutory Authority: 1322.57
Rule Amplifies: 1322.01(AA)(2)(h)
Prior Effective Dates: 01/04/2016