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**Proposed Rules –  
Ohio Mortgage Broker Act  
January 19, 2007**

The Division of Financial Institutions (Division) has drafted proposed administrative rules to implement the provisions of S.B. 185 which becomes effective January 1, 2007. S.B. 185 strengthens the Ohio Mortgage Broker Act and provides regulators & consumers with more tools to enhance consumer protection and prevent abusive lending practices.

The Division commenced the formal rules promulgation process on November 17, 2006 and now seeks comment from interested persons, including members of the public, mortgage lending industry, consumer advocates, and practitioners. A public hearing on the Division's proposed rules was held on December 19, 2006 at the Division's offices in Columbus located at 77 South High Street, 23<sup>rd</sup> floor conference room. You may still submit your comments on the proposed rules by sending them to:

Division of Financial Institutions  
Consumer Finance Section  
77 South High Street, 21<sup>st</sup> Floor  
Columbus, Ohio 43215  
Attn: Rich Keck

The Division does intend to make certain changes to the rules and has indicated this intent on the Electronic Rules Filing system.

The following is a compilation of the rules proposed by the Division. In the alternative, you may view the "official" proposal of the rules, the notice for the public hearing, and other information regarding the rules at the State of Ohio's Register of Ohio web site located at <http://www.registerofohio.state.oh.us/> .

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**1301:8-7-01 Definitions.**

The definitions provided in section 1322.01 of the Revised Code and the following defined terms, shall apply to this chapter and shall serve as the ~~division's~~ division's interpretation unless the language of the rule indicates to the contrary:

- (A) As used in Chapter 1322. of the Revised Code and this chapter, "mortgage broker" and "registrant" include those persons operating under the authority of sections 1322.01 to 1322.12 of the Revised Code who hold certificates of registration issued pursuant to those sections, those persons who should have obtained certificates but did not, and persons whose business is physically located in Ohio but who exclusively solicit buyers from states other than Ohio.
- (B) As used in Chapter 1322. of the Revised Code and this chapter, "loan officer" and "licensee" include those individuals who hold licenses issued pursuant to sections 1322.01 to 1322.12 of the Revised Code and those individuals who should have obtained licenses but did not.
- (C) As used in division (C) of section 1322.08 of the Revised Code, "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 loan application has been refused or denied.
- (D) "Services of a mortgage broker" as used in division (A) of section 1322.01 of the Revised Code include, but is not limited to, services concerning residential mortgage loans and loans used to refinance an existing residential mortgage.
- (E) Division (C) of section 1322.01 of the Revised Code shall not be construed to prohibit registrants from contracting with third party providers for the administration of payroll, tax, benefits, or other similar services. Contracting with such a provider does not alter the employee-registrant relationship for purposes of sections 1322.01 to 1322.12 of the Revised Code or ~~these rules~~ this chapter.
- (F) "Person," as used in Chapter 1322. of the Revised Code and this chapter, means a natural person, corporation, partnership, company, limited liability corporation, association, an unincorporated organization, or any other group however organized.
- (G) "~~Affiliate,~~" "Control," as used in division (C)(1)(a) of section 1322.02 of the Revised Code and this chapter, means ~~a business entity other than a sole proprietorship which directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with a bank, savings bank, savings and loan association, or credit union organized under the laws of this state, another state, or the United States. For purposes of this rule, "control" shall mean owning, controlling, or having the power to vote twenty-five percent or more of any class of voting securities or otherwise controlling in any manner the election of a majority of directors or trustees of another business entity~~ ownership, control, or power to vote twenty-five per cent or more of the outstanding shares of any class of voting

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securities of the other entity, directly or indirectly or acting through one or more other persons.

- (H) "Subsidiary," as used in division (C)(1)(a) of section 1322.02 of the Revised Code and this chapter, means a business entity of which a bank, savings bank, savings and loan association, ~~or credit union,~~ or credit union service organization owns or holds of record equity interests entitling the bank, savings bank, savings and loan association, ~~or credit union,~~ or credit union service organization to exercise a majority of the voting power in the election of directors or similar essential governance decisions.
- (I) "Real Estate Settlement Procedures Act" means the Real Estate Settlement Procedures Act, 12 U.S.C. sections 2601 et seq., and rules promulgated thereunder including - Regulation X, 24 C.F.R. sections 3500 et seq., as in effect on January 1, 2007.
- (J) "Truth in Lending Act" means the Truth in Lending Act, 15 U.S.C. sections 1601 et seq., and rules promulgated thereunder including Regulation Z, 12 C.F.R. sections 226 et seq., as in effect on January 1, 2007.
- (K) "Theft," as used in section 1322.04 and 1322.041 of the Revised Code and this chapter, means those offenses set forth as a theft offense in division (K) of section 2913.01 of the Revised Code.

**1301:8-7-02      Mortgage broker registration; office requirements and restrictions.**

- (A) For purposes of division (G) of section 1322.01 of the Revised Code and division (A)(2) of section 1322.02 of the Revised Code, a person "holds oneself out" by advertising or otherwise informing the public that the person engages in any of the activities indicated, including without limit through the use of business cards, stationery, brochures, rate lists, or an internet website.
- (B) Division (G)(1) of section 1322.01 of the Revised Code, includes, but is not limited to, collecting data from buyers through any medium including the internet or telephone, distributing the information to multiple lenders who in turn provide loan terms which the lenders would be willing to provide to buyers based on the information submitted, then forwarding the loan terms to the buyers so that the buyers can contact the lender directly and charging or receiving any valuable consideration from the buyer, lender, or mortgage broker.
- (C) Division (G)(2) of section 1322.01 of the Revised Code, includes, but is not limited to, soliciting personal financial and mortgage information from buyers through any medium including the internet or telephone, and providing that information to a mortgage broker and charging or receiving any valuable consideration for the

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information. This practice is commonly referred to as obtaining or generating "leads." For purposes of this rule, "personal financial and mortgage information" includes, but is not limited to, social security numbers and any financial account number such as a credit card or bank account number.

- (D) As used in division (C)(1) of section 1322.02 of the Revised Code, the phrase "only with respect to business engaged in or authorized by" means that a person is exempt from registration and compliance under sections 1322.01 to 1322.12 of the Revised Code only while performing the work and/or activities specifically authorized by their charter, license, authority, approval, or certificate, or authorization described in division (C)(1)(g) of section 1322.02 of the Revised Code. However, if the person performs any activity not expressly authorized and the activity falls within the scope of sections 1322.01 to 1322.12 of the Revised Code, registration and compliance is required. The origination of mortgage loans that comply with the guidelines set forth by the United States department of housing and urban development, the federal national mortgage association, the federal home loan mortgage corporation or the United States department of veterans affairs in all respects except the size of the loans is not exempt from the registration and compliance requirements of Chapter 1322. of the Revised Code unless the person originating the loan meets the definition of "mortgage banker" in division (C)(1)(g) of section 1322.02 of the Revised Code.
- (E) In accordance with division (A)(1) of section 1322.02 of the Revised Code, a certificate of registration must be obtained from the superintendent of financial institutions for every office to be maintained by the person for the transaction of business as a mortgage broker in this state. A person must register a location as an office for the transaction of business as a mortgage broker in this state where any of the following activities occur or conditions exist:
- (1) Financial and mortgage information is solicited from the public for sale to a mortgage broker;
  - (2) Records required by rule 1301:8-7-06 of the Administrative Code are maintained;
  - (3) Printed or electronic advertisements indicate that mortgage lending or brokering is conducted; or
  - (4) Any location that is held out ~~to the general public~~ as a location at which the registrant, an employee of the registrant, or any agent of the registrant provides mortgage ~~brokerage~~ broker services.
- (F) A registrant may share office space with another person if:
- (1) The physical arrangement of the shared space does not confuse or mislead buyers about the registrant's identity;

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- (2) Computer access to buyer files and/or personal financial information is limited to the registrant's employees in the absence of full disclosure and written consent of the buyer;
  - (3) Records required to be created and maintained under rule 1301:8-7-06 of the Administrative Code are kept separate and inaccessible from any person not employed by the registrant.
- (G) In accord with division (A)(1) of section 1322.02 of the Revised Code, every registrant shall maintain at all times at least one office located in the state of Ohio that meets the following minimum criteria:
- (1) The office location shall be a physical location of at least one room in a building of secure construction, which does not include portable buildings, where:
    - (a) The registrant conducts mortgage broker activities pursuant to Chapter 1322. of the Revised Code;
    - (b) At least one licensed loan officer employed by the registrant has the ability to investigate and resolve questions and complaints from buyers; and
    - (c) Where a buyer who wishes to meet face-to-face with a licensed loan officer can bring all documents applicable to his or her application for or existing home mortgage for examination in conjunction with an inquiry, complaint or concern.
  - (2) The office location shall have a street address, and shall not be a post office box or similar designation. An unstaffed storage facility shall not meet the requirements of ~~this~~ section 1322.02 of the Revised Code.
- (H) The following restrictions and requirements apply to branch offices:
- (1) A branch office shall not be a separate business entity. Each branch office and every employee of each branch office is the responsibility of the registrant and shall be under the direct control, management and supervision of the registrant.
  - (2) A branch office shall not pay its own operating expenses. Operating expenses shall include, but are not limited to, compensation of branch office employees, and payments for equipment, furniture, office rent, 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 must be properly accounted for in the financial records and state and federal tax returns of the registrant.

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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 remain the responsibility of the registrant.

- (3) A branch office shall not indemnify the registrant against damages incurred from any apparent, express, or implied agency representation, or from any actions of the branch or the employees working in, from or through the branch.
  - (4) A branch shall not maintain a banking account or accounts for the payment of expenses of that branch that is separate from the account or accounts of the registrant. All operating expenses must 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 lines of credit, warehouse agreements, or other investor agreements that are separate from those of the registrant.
  - (6) A branch office shall not maintain contractual relationships with vendors for items such as leases, telephones, utilities, and advertising in the name of the branch office. All contractual relationships must be by and through the registrant.
  - (7) All practices, policies, and procedures, including but not limited to those relating to employment and operations, must be originated and established by the registrant and must be applied consistently to the main office and all branches.
- (I) A purported branch location which does not comply with paragraph (H) of this rule, or any other arrangement where a registrant allows a separate entity to conduct mortgage business under the registrant's certificate of authority, sometimes referred to as "net branching," is not permissible.
- (J) 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.
- (K) The following statuses apply to certificates of registration:
- (1) Pending. A person with a pending application for a mortgage broker certificate of registration is not licensed and is not authorized to conduct mortgage broker activities.
  - (2) Active. A person with an active certificate of registration is authorized to engage in mortgage broker activities.

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- (3) Suspended. Suspension is a disciplinary registration status. A person with a suspended certificate of registration is not permitted to conduct mortgage broker activities.
- (a) Engaging in, or participating or assisting in any way in any conduct or activity for which a certificate of registration is required while a certificate of registration is suspended, constitutes a violation of division (A) of section 1322.02 of the Revised Code.
- (b) A suspended certificate of registration is subject to revocation or any other administrative, disciplinary, or penal action for actionable conduct occurring before, during or after the certificate was suspended.
- (c) A suspended certificate of registration may be returned to active status upon the following conditions:
- (i) The superintendent believes that all conditions of the disciplinary action for which the certificate was suspended have been satisfied; and
- (ii) The registrant is otherwise eligible and suitable to hold an active certificate.
- (4) Revoked. Revocation is a disciplinary status. A person with a revoked certificate of registration is not permitted to engage in mortgage broker activities. Engaging in, or participating or assisting in any way in any conduct or activity for which a certificate of registration is required while a certificate of registration is revoked constitutes a violation of division (A) of section 1322.02 of the Revised Code.
- (5) Denied. Denial is a disciplinary registration status. A person denied registration is not permitted to engage in mortgage broker activities. Engaging in, or participating or assisting in any way in any conduct or activity for which a certificate of registration is required while a certificate of registration is denied constitutes a violation of division (A) of section 1322.02 of the Revised Code.
- (6) Cancelled. A person with a cancelled certificate of registration is not permitted to engage in mortgage broker activities. A cancelled certificate may not be reinstated. To receive a new certificate of registration a person must comply with rule 1301:8-7-03 of the Administrative Code for obtaining a certificate of registration. A certificate of registration may be cancelled on occurrence of the following:
- (a) When the certificate of registration expires; or
- (b) If the certificate of registration is surrendered in accordance with the following:

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(i) A person may voluntarily surrender an active certificate of registration as long as the person is not under investigation by the division, or the superintendent has not issued a notice of opportunity for a hearing under chapter 119. of the Revised Code. An investigation includes the review of any complaint made against or involving the person. A person may surrender the certificate of registration by submitting a notarized statement to the superintendent on a form prescribed by the superintendent.

(ii) Once a surrendered certificate of registration has been accepted by the division, the registration will be cancelled. A voluntary surrender that is accepted by the division will be effective immediately upon the division's acceptance, and not a later date.

(iii) A surrender will not affect the person's civil or criminal liability for acts committed before the surrender, and does not impair or affect the obligation of a preexisting lawful contract between the registrant and any person, including a buyer.

(7) Withdrawn. A person whose application has been withdrawn is not permitted to engage in mortgage broker activities. Engaging in, or participating or assisting in any way in any conduct or activity for which a certificate of registration is required while a certificate of registration is withdrawn constitutes a violation of division (A) of section 1322.02 of the Revised Code. A withdrawn application may not be reactivated. If the application of a person is withdrawn and the person later decides to re-apply, a new application must be completed and submitted.

(L) No registrant, through its operations manager or otherwise, shall fail to reasonably supervise a loan officer or other persons associated with the registrant or to establish reasonable procedures designed to avoid violations of Chapter 1322. of the Revised Code or of Chapter 1301:8-7 of the Administrative Code by loan officers or other persons associated with the registrant.

**1301:8-7-03      Mortgage broker application for a certificate of registration--main office; branch office; issuance and expiration of certificate.**

(A) To apply for a mortgage broker certificate of registration, an applicant must submit all of the following for the applicant's main office location:

- (1) A non-refundable application fee of three hundred fifty dollars;
- (2) A completed and properly executed "Application for a Mortgage Broker Certificate of Registration" form approved by the superintendent of the division

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of financial institutions. If the registration application is incomplete when submitted, it ~~will not be accepted and will be~~ may be deemed unacceptable and - returned for completion. An application is deemed incomplete if it does not have the necessary documents attached; if it is not accompanied by the appropriate fee(s); if any portion of it is not properly executed; if any portion of it is missing; or if any questions are unanswered, incompletely answered or missing any required details. An application for a mortgage broker certificate of registration requires submission of all of the following:

- (a) A copy of the surety bond issued in compliance with section 1322.05 of the Revised Code and rule 1301:8-7-14 of the Administrative Code;
- (b) Proof that the applicant has established a special account that fulfills the requirements of section 1322.08 of the Revised Code and rule 1301:8-7-05 of the Administrative Code;
- (c) A letter of good standing issued by the Ohio secretary of state that is not more than sixty days old;
- (d) A copy of the appointment of a statutory agent filed with the Ohio secretary of state upon whom process may be served. The secretary of state requires the statutory agent to be either a natural person that resides in Ohio, or a corporation that holds a license under the laws of Ohio that is authorized by its articles of incorporation to act as an agent and that has an Ohio business address;
- (e) If the applicant will use a trade or alternative business name, a copy of the certificate of authority issued by the Ohio secretary of state must be included with the application. Trade or alternative business names, and service marks must comply with rule 1301:8-7-22 of the Administrative Code;
- (f) A copy of the lease or rental agreement for the location at which the business will be transacted showing that the applicant is contractually responsible, or proof that the applicant owns the location. At least one office location must meet the minimum standards set forth in paragraph (G) of rule 1301:8-7-02 of the Administrative Code;
- (g) A photograph of the location at which the business will be transacted;
- (h) If the application is for a location that is a residence, the applicant must submit proof that the applicant owns or is responsible for rent or lease of the residence, and:
  - (i) ~~Proof that the applicant owns or is responsible for rent or lease of the residence; and~~

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~~(ii)(i)~~ (i) A certified copy of a zoning permit authorizing the use of the residence for commercial purposes; or

~~(iii)(ii)~~ (ii) A written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited;

~~(i) An operations manager approval application with supporting documentation evidencing compliance with paragraph (E) of rule 1301:8-7-12 of the Administrative Code.~~

~~(i)~~ (i) Evidence that the applicant's operations manager has successfully completed the examination required under division (A) of section 1322.051 of the Revised Code. The individual designated as an applicant's operations manager must be approved by the superintendent of the division of financial institutions, in accordance with rule 1301:8-7-12 of the Administrative Code, before the individual may sit for the examination.

(3) If the applicant is applying for a certificate of registration for more than one location, the applicant must submit a branch office application in accordance with paragraph (B) of this rule for each location other than the main office;

(4) Any other information requested by the superintendent.

(B) To apply for a mortgage broker certificate of registration for a branch office, an applicant must submit all of the following:

(1) A non-refundable application fee of three hundred fifty dollars;

(2) A completed and properly executed "Branch office-Office Application for a Mortgage Broker Certificate of Registration" form approved by the superintendent of the division of financial institutions. If the branch office registration application is incomplete when submitted, it ~~will not be accepted and will be~~ may be deemed unacceptable and returned for completion. An application is deemed incomplete if it does not have the necessary documents attached; if it is not accompanied by the appropriate fee(s); if any portion of it is not properly executed; if any portion of it is missing; or if any questions are unanswered, incompletely answered or missing any required details. An application for a mortgage broker certificate of registration for a branch office location requires ~~of~~ all of the following:

(a) Evidence that the registrant has complied with the ~~security~~-surety bond requirements of section 1322.05 of the Revised Code and rule 1301:8-7-14 of the Administrative Code;

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- (b) A letter of good standing issued by the Ohio secretary of state that is not more than sixty days old;
- (c) If the applicant will use a trade or alternative business name for the branch office location, a copy of the certificate of authority issued by the Ohio secretary of state must be included with the application. Trade or alternative business names, and service marks must comply with rule 1301:8-7-22 of the Administrative Code;
- (d) A copy of the lease or rental agreement for the location at which the business will be transacted showing that the applicant is contractually responsible, or proof that the applicant owns the location. Branch office arrangements must comply with the provisions of rule 1301:8-7-02 of the Administrative Code.
- (e) A photograph of the location at which the business will be transacted; and
- (f) If the application is for a location that is a residence, the applicant must submit: proof that the applicant owns or is responsible for rent or lease of the residence, and;
  - ~~(i) Proof that the applicant owns or is responsible for rent or lease of the residence; and~~
  - ~~(ii)(i)~~ (i) A certified copy of a zoning permit authorizing the use of the residence for commercial purposes; or
  - ~~(iii)(ii)~~ (ii) A written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited.
- (C) The division of financial institutions may not accept main office applications for mortgage broker certificates of registration in the months of April and May because of the volume of license renewals during those months. Any applications for initial registration received during April and May may not be accepted for filing and may be returned to the sender.
- (D) Each question on the registration application, including any exhibit and attachment, is material to the licensing process. Submitting false or incomplete information or omitting information in connection with a registration application is grounds for denial or revocation of the registration certificate and may subject the applicant and individuals who signed the application to civil and or criminal penalties.

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- (E) If the information contained in an application for registration as a mortgage broker becomes inaccurate for any reason before the applicant becomes registered, the applicant shall be responsible for correcting the inaccurate information within thirty days of the change unless required otherwise by rule 1301:8-7-19 of the Administrative Code.
- (F) An applicant may request the withdrawal of an application prior to a determination of the application being made by the superintendent of the division of financial institutions by submitting a written request that the application be withdrawn. A request to withdraw an application for a mortgage broker certificate of registration can only be submitted by those individuals who signed the application. The application may only be withdrawn with the permission of the superintendent.
- (G) All application fees are non-refundable regardless of whether an application is withdrawn or denied.
- (H) Filing an application for a mortgage broker certificate of registration does not authorize an applicant to act as a mortgage broker. To be authorized to act as a mortgage broker as defined in division (G) of section 1322.01 of the Revised Code, a person must hold an active certificate of registration for each location at which the person will conduct business as a mortgage broker.
- (I) Upon approval of an application, a certificate of registration will be issued for the remainder of the annual registration period. A separate certificate of registration will be issued for each registered office identifying the office address, the name of the registrant, and any trade or alternative name to be used for the location.
- (J) A certificate of registration may be renewed annually on or before the thirtieth day of April if the registrant complies with division (B) of section 1322.04 of the Revised Code and rule 1301:8-7-04 of the Administrative Code.
- (K) Once a certificate of registration is issued, the registrant is under a continuing duty to update the information contained in the registration application, and to report to the division all changes or additions to information in the application within thirty days of the change unless required otherwise by rule 1301:8-7-19 of the Administrative Code. This does not relieve the registrant from any other filing, including relocation filings, required by law or rule.

**1301:8-7-06      Recordkeeping.**

- (A) In accordance with division (B) of section 1322.06 of the Revised Code, a registrant shall maintain records pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code for four calendar years. If the loan is not serviced by the registrant, the retention period commences on the date the loan is closed or, if the loan is not closed, the date of the withdrawal or turndown of the loan application. If

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the loan is serviced by the registrant, the retention period commences on the date the loan is paid in full or the date the licensee ceases to service the loan.

- (B) If a person surrenders its certificate of registration or otherwise ceases to engage in business as a mortgage broker, such person shall nonetheless preserve the records required by this rule.
- (C) All books and records shall be kept in this state in a registered office that is readily accessible to the division of financial institutions. Should a registrant wish to maintain such records elsewhere, it must submit a written request to the superintendent and receive written authorization prior to said books, accounts, and records being maintained in any place other than the registered in-state office location designated on the registration application.
- (D) Any registrant who is granted approval to store its books and records in a location outside this state shall pay the division's travel, lodging and per diem expenses incurred in travel to examine such books and records. At the request of the superintendent, payment of the estimated travel, lodging and per diem expenses, 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.
- (E) All records shall be kept current and shall be available at all times during normal business hours for review by the division of financial institutions. 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 where 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, at its expense, shall be responsible for providing the division with a full and accurate translation. For purposes of recordkeeping, ~~current~~ "current" means within thirty business days from the date of the occurrence of the event required to be recorded.
- (F) A registrant shall segregate the records relating to the business it conducts pursuant to sections 1322.01 to 1322.12 of the Revised Code from all other business records.
- (G) Any books, accounts or records required to be maintained by this rule may be maintained in their original form, on microfiche or other electronic media, provided:  
~~(1) the registrant obtains prior written approval from the superintendent; and (2) 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 such request.~~

(1) The registrant obtains prior written approval from the superintendent; and

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(2) 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.

(H) Every registrant must make, maintain, keep current and preserve the following books and records in a legible and readily accessible format:

(1) An alphabetical index of all buyers for whom the registrant has obtained mortgage loans, which lists the dates of the loan obtained for the buyers, the amounts of the loans, the ~~individual(s)~~individual responsible for originating the ~~loans,~~loan, and the ~~identities~~identity of the lenders that funded or purchased the ~~loans.~~loan;

(2) HUD file. Each registrant shall create, maintain, keep current and preserve a file that contains a complete signed copy of each final HUD-1 and HUD-1A settlement statement, arranged chronologically, for each loan originated by the registrant on behalf of a buyer. The HUD file shall be maintained separately from the HUDs contained in the individual buyer files. Each HUD statement shall separately disclose all of the following, regardless of whether fees are paid outside of closing or are included in the amount of the loan:

(a) The amount, type, and identity of the recipient of each fee paid by the buyer in conjunction with loans originated by the registrant including, but not limited to appraisal fees, credit report fees, rate lock fees, yield spread premiums, courier fees, and title and settlement fees. This rule shall not be interpreted to require the disclosure of yield spread premiums and servicing release fees collected by registrants from investors as a result of the sale of mortgage loans on the secondary market; and

(b) The amount and type of every fee paid to the registrant by the buyer including, but not limited to, mortgage broker fees, application fees, document preparation fees, origination fees and underwriting fees;

(3) Individual buyer files. Each registrant shall create, maintain, and keep current, a separate file for each application received. Each ~~Individual Buyer File~~individual buyer file shall contain, when applicable, at least the following:

(a) A copy of the original loan application signed and dated by the buyer and the individual originating the loan, including any attachments, supplements, or addenda thereto;

(b) Credit information such as written authorizations to order credit report(s), verifications, credit reports, and any correspondence regarding credit repair;

(c) Signed and dated copies of any and all contractual agreements or understandings, including, but not limited to, any interest rate lock-ins or

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loan commitments, broker or co-broker agreements, and all notes and memoranda of conversations or meetings with any mortgage applicant or any other party in connection with that mortgage loan application or its ultimate disposition;

(d) A copy of the original signed and dated mortgage loan origination disclosure statement, as well as any revised copies, as mandated by section 1322.062 of the Revised Code and in compliance with rule 1301:8-7-15 of the Administrative Code;

(e) Copies of all applicable federal disclosures given to the individual buyer, including but not limited to:

(i) The original dated, as well as any revised: "Good Faith Estimate; HUD-1 and HUD 1-A settlement statements; Required Use Disclosure; Affiliated Business Arrangement Disclosure; and or Mortgage Servicing Disclosure, as required under the Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. sections 2601-2617, and the rules promulgated thereunder, known as Regulation X and codified in 24 C.F.R. Part 3500 and in effect on ~~June 30, 2006~~ January 1, 2007." Each HUD statement shall comply with the disclosure requirements of paragraph (H)(2) of this rule;

~~Each HUD statement shall comply with the disclosure requirements of paragraph (H)(2) of this rule.~~

(ii) The original dated, as well as any revised "Truth in Lending Disclosure Statement, as required by the federal Truth in Lending Act, 15 U.S.C. sections 1601-1667f., and the rules promulgated under the act, known as Regulation Z, found in 12 C.F.R. Part 226 and in effect on ~~June 30, 2006~~ January 1, 2007;" and

(iii) Copies of any disclosure required by the federal "Equal Credit Opportunity Act, 15 U.S.C. sections 1691-1691f.—, and the corresponding rules, titled Regulation B, found in 12 C.F.R. Part 202 effective January 1, ~~2006~~, 2007;" including any required thirty-day notification; notice of right to receive a copy of the appraisal; and denial notices;

(f) A copy of each appraisal and the corresponding appraisal invoice;

(g) Receipts or other documentation acceptable to the superintendent for any fees collected by the registrant from the buyer on behalf of third-party service providers such as real estate appraisers, title companies, credit reporting services, and couriers, including receipts for any rate lock fees collected from buyers on behalf of mortgage lenders, or flood plain

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certification reports. This rule shall apply whether or not the collection or receipt of the fees occurs prior to the closing of the loan or the fees are paid to the registrant from the proceeds of the loan; and

(h) Copies of all applicable disclosures required by state law.

- (4) Special account records. Each registrant shall create, maintain, and keep current, records related to the special account required by section 1322.08 of the Revised Code. Such records shall comply with rule 1301:8-7-05 of the Administrative Code.
- (5) Advertisement file. Each registrant shall create, maintain, and keep current, the advertisement file mandated by rule 1301:8-7-07 of the Administrative Code.
- (6) General business records. The following general business records must be maintained and kept current:
  - (a) All correspondent agreements with lenders to whom loan applications are submitted;
  - (b) All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and cancelled checks or electronic images;
  - (c) Copies of any checks made payable to a registrant from a buyer or other entity paying a fee for the services of the registrant or an employee of the registrant;
  - (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. HUD-1 and HUD-1A - ~~Settlement Statements~~ 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 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 mortgage broker 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 articles of incorporation, corporate minutes, and documents evidencing corporate name changes, change of ownership or officers; and

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- (h) Such other books and records as the superintendent of the division of financial institutions may from time to time specify in writing.

**1301:8-7-08      Loan officer license requirement; exemptions; license status.**

- (A) To be authorized to originate residential mortgage ~~loans~~ loan transactions with a registrant governed by Chapter 1322. of the Revised Code, an individual must:

(1) Hold an active loan officer license with that registrant; or

(2) Hold an escrowed loan officer license and:

(a) Have submitted a transfer application to the division; and

(b) The registrant to which the individual is transferring must have received written confirmation from the superintendent in accordance with division (B)(2) of section 1322.031 of the Revised Code and paragraph (B) of rule 1301:8-7-11 of the Administrative Code; ~~or.~~

~~(3) Be employed by and working for a person exempt from sections 1322.01 to 1322.12 of the Revised Code, and working within the scope of that employment.~~

- (B) Regardless of an individual's job title, an individual must hold an active loan officer license if the individual is not employed by and working for a person exempt from sections 1322.01 to 1322.12 of the Revised Code, and the individual performs any of the following either directly or indirectly, in person, in writing, electronically or telephonically:

(1) Holds oneself out by advertising or otherwise informing the public that the person engages in any loan origination activities, including without limit through the use of business cards, stationery, brochures, advertisements, rate lists or other promotional items;

(2) Discusses credit repair, credit qualifications or financial condition with buyers, or advises the buyer of actions necessary to improve the buyer's ability to obtain a mortgage loan;

(3) Signs, or presents to a buyer for signature, a loan application document, or signs a mortgage loan origination disclosure statement on behalf of a mortgage broker registrant;

(4) Quotes rates, fees, pricing, loan terms, describes available loan programs, or offers information as to the type of loan for which an individual may qualify;

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- (5) Provides assistance in taking and preparing an application for a mortgage loan;
- (6) Discusses mortgage broker fees or obtains written authority from buyers to electronically debit their accounts;
- (7) Solicits personal financial and mortgage information from buyers including social security numbers, bank account numbers or credit card numbers.
- (8) Receives commissions, bonuses, or any other compensation based on the closing of loans or the fees realized on loans;

(C) The following statuses apply to loan officer licenses:

- (1) Pending. An individual with a pending loan officer license application is not licensed and is not authorized to originate residential mortgage loans.
- (2) Active. An individual with an active license is authorized to originate residential mortgage loans. A loan officer license is designated active only if the license is current and the division's records reflect that the licensee is employed by a registrant.
- (3) Escrow. An individual with a license placed in escrow is not permitted to originate residential mortgage loans. An escrowed license is an inactive license. A loan officer license is placed in escrow if the licensee so requests, or if the licensee is no longer employed by a registrant.
  - (a) Engaging in, or participating or assisting in any way in any conduct or activity for which a loan officer license is required, while a license is in escrow status, constitutes a violation of division (B) of section 1322.02 of the Revised Code.
  - ~~(b) If a license is placed in escrow, the licensee is not exempt from the ninety-day examination requirement of section 1322.051 of the Revised Code. Placing the license in escrow does not extend the time for the ninety day examination requirement.~~
  - ~~(b)~~ (b) If a license is placed in escrow, the licensee is not exempt from the continuing education requirements of section 1322.052 of the Revised Code and rule 1301:8-7-18 of the Administrative Code. Placing a license in escrow does not extend the time for completion of the ~~licensee's~~ licensee's continuing education requirements.
  - ~~(c)~~ (c) Escrowed licenses must be renewed pursuant to division (B) of section 1322.041 of the Revised Code and rule 1301:8-7-10 of the Administrative Code.

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- ~~(e)~~(d) The escrow of a loan officer license does not impair or affect the obligation of a preexisting lawful contract between the employing registrant and any person, including a buyer.
- ~~(f)~~(e) An escrowed license is subject to suspension, revocation, or any other administrative, disciplinary, or criminal action for actionable conduct occurring before, during, or after the license was placed in escrow status.
- ~~(g)~~(f) A license may be returned to active status upon the following conditions:
- (i) The person files a completed transfer application pursuant to rule 1301:8-7-11 of the Administrative Code and provides any other information requested by the superintendent; and
  - (ii) The licensee is otherwise eligible and suitable to hold an active license.
- (4) Suspended. Suspension is a disciplinary license status. An individual with a suspended license is not permitted to originate residential mortgage loans.
- (a) Engaging in, or participating or assisting in any way in any conduct or activity for which a loan officer license is required while a license is in suspended status, constitutes a violation of division (B) of section 1322.02 of the Revised Code.
  - ~~(b) If a license is suspended, the licensee is not exempt from the ninety day examination requirement of section 1322.051 of the Revised Code. The ninety day examination requirement is not tolled while the license is suspended.~~
  - ~~(e)~~(b) If a license is suspended, the licensee is not exempt from the continuing education requirements of section 1322.052 of the Revised Code and rule 1301:8-7-18 of the Administrative Code. The time for completion of the licensee's continuing education requirements is not tolled while the license is suspended.
  - ~~(d)~~(c) A suspension of a loan officer license does not impair or affect the obligation of a preexisting lawful contract between the employing registrant and any person, including a buyer.
  - ~~(e)~~(d) A suspended license is subject to revocation, or any other administrative, disciplinary, or criminal action for actionable conduct occurring before, during, or after the license was suspended.
  - ~~(f)~~(e) A license may be returned to active status upon the following conditions:

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- (i) The superintendent believes that all conditions of the disciplinary action for which the license was suspended have been satisfied; and
  - (ii) The licensee is otherwise eligible and suitable to hold an active license.
- (5) Revoked. Revocation is a disciplinary license status. An individual with a revoked license is not permitted to originate residential mortgage loans.
- (a) Engaging in, or participating or assisting in any way in any conduct or activity for which a loan officer license is required when a license has been revoked, constitutes a violation of division (B) of section 1322.02 of the Revised Code.
  - (b) A revocation of a loan officer license does not impair or affect the obligation of a preexisting lawful contract between the employing registrant and any person, including a buyer.
- (6) Denied. Denial is a disciplinary license status. An individual with a denied license is not permitted to originate residential mortgage loans. Engaging in, or participating or assisting in any way in any conduct or activity for which a loan officer license is required, when a license has been denied, constitutes a violation of division (B) of section 1322.02 of the Revised Code.
- (7) Cancelled. An individual with a cancelled license is not permitted to originate residential mortgage loans. A cancelled license may not be reinstated. To receive a new license a person must comply with rule 1301:8-7-09 of the Administrative Code for obtaining a loan officer license. A license is cancelled on the occurrence of any of the following:
- ~~(a) On the ninety first day after the license was issued if the licensee fails to successfully complete the examination required by section 1322.051 of the Revised Code;~~
  - ~~(b)~~(a) When the license expires;
  - ~~(c)~~(b) If the license is surrendered in accordance with the following:
    - (i) A person may voluntarily surrender an active or escrowed loan officer license as long as the person is not under investigation by the division, or the superintendent has not issued a notice of opportunity for a hearing under Chapter 119. of the Revised Code. An investigation includes the review of any complaint made against or involving the person. A person may surrender his or her license by submitting a notarized statement to the superintendent on a form prescribed by the superintendent.

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- (ii) Once a surrendered license has been accepted by the division, the license will be cancelled. A voluntary surrender that is accepted by the division will be effective immediately upon the division's acceptance, and not at a later date.
  - (iii) A surrender will not affect the person's civil or criminal liability for acts committed before the surrender, and does not impair or affect the obligation of a preexisting lawful contract between the employing registrant and any person, including a buyer.
- (8) Withdrawn. An individual whose application has been withdrawn is not permitted to originate residential mortgage loans. Engaging in, or participating or assisting in any way in any conduct or activity for which a loan officer license is required, without an active license constitutes a violation of division (B) of section 1322.02 of the Revised Code. A withdrawn application may not be re-activated. If the application of an individual is withdrawn and the individual later decides to re-apply, a new application must be completed and submitted.

**1301:8-7-09      Loan officer license application; issuance of loan officer license; license display.**

- (A) An individual who wishes to apply for a loan officer license must submit all of the following:
- (1) A non-refundable application fee of one hundred dollars;
  - (2) A completed and properly notarized loan officer license application. If the loan officer license application is incomplete when submitted, it may ~~not be accepted and may be~~ deemed unacceptable and returned for completion. An application is deemed incomplete if it does not have the necessary documents attached; if it is not accompanied by the appropriate ~~fee(s)~~ fee; if any portion of it is not properly executed; if any portion of it is missing; or if any questions are unanswered, incompletely answered or missing any required details;:
    - (a) The applicant must list his or her full legal name on the license application; and
    - (b) A post office box cannot be listed as a home address.
  - (3) A ~~completed~~ properly notarized certificate of employment completed and signed by a registrant's operations manager. The certificate verifies that upon issuance of a loan officer license, the registrant will employ the applicant as a loan officer;.

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- (4) An approved criminal records check;
- (5) Proof of completion of the pre-licensing education requirement set forth in division (A)(4) of section 1322.031 of the Revised code; and
- ~~(5)~~(6) Any other information requested by the superintendent.
- (B) The division will not issue loan officer licenses from the tenth day of April to the thirtieth day of April ~~because of~~ due to the April thirtieth deadline for renewal applications.
- (C) The division will not ~~accept an application for issue~~ issue a loan officer license ~~from any individual who has twice failed to comply with division (B) of section 1322.051 and rule 1301:8-7-17 of the Administrative Code for one calendar year from the date of cancellation of the last license issued to the individual~~ until an applicant has satisfactorily passed the examination required by division (B) of section 1322.051 of the Revised Code and rule 1301:8-7-17 of the Administrative Code.
- (D) If an individual is denied a loan officer license by the division for failing to fully disclose his or her criminal record on a licensing application, the division will not accept a new application for a loan officer license from that individual for two years from the date of the final division order denying the prior license application.
- (E) The division will not accept an application for a loan officer license from an individual who has a pending application on file, or from a licensee whose license is in active, suspended, or escrow status. Any attempt to transfer a license must be done in compliance with rule 1301:8-7-11 of the Administrative Code. Any attempt to renew a license must be done in accordance with rule 1301:8-7-10 of the Administrative Code.
- (F) If an applicant previously held a loan officer license and failed to complete the continuing education requirement of section 1322.052 of the Revised Code, the prior education requirements must be completed before the superintendent will issue the applicant a new license. In addition, the superintendent may impose a fine pursuant to section ~~1322.06~~ 1322.10 of the Revised Code for the applicant's prior non-compliance with section 1322.052 of the Revised Code, or may refuse to issue the individual a new license if the superintendent finds that based on the past non-compliance, the applicant's character and general fitness do not command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with sections 1322.01 to 1322.12 of the Revised Code.
- (G) Each question on the license application is material to the licensing process. Submitting false or incomplete information or omitting information in connection with a license application is grounds for denial or revocation of the license.

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- (H) If the information contained in an application for licensure as a loan officer becomes inaccurate for any reason before the applicant becomes licensed, the applicant shall be responsible for correcting the inaccurate information within ten business days of the change. Any name change request must be made in compliance with paragraph (I) of rule 1301:8-7-19 of the Administrative Code and must be accompanied by a copy of the name change order, such as, marriage license, divorce decree, or court order. Any address change must comply with paragraph (H) of rule 1301:8-7-19 of the Administrative Code.
- (I) An applicant may request the withdrawal of an application prior to a determination of the application being made by the superintendent of the division of financial institutions by submitting a written request that the application be withdrawn. A request to withdraw a loan officer license application can only be submitted by the applicant. The application may only be withdrawn with the permission of the superintendent.
- (J) All application fees are non-refundable regardless of whether an application is withdrawn or denied.
- (K) Filing a loan officer license application does not authorize an individual to originate mortgage loans. To be authorized to engage in any activity described in paragraph (B) of rule 1301:8-7-08 of the Administrative Code, an individual must hold an active loan officer license.
- (L) Upon approval of an application, a license will be issued in the legal name of the applicant, as listed on the licensing application, for the remainder of the annual licensure period. Licenses may be renewed annually on or before the thirtieth day of April if the licensee complies with division (B) of section 1322.041 of the Revised Code, and rule 1301:8-7-10 of the Administrative Code.
- (M) Once a license is issued, a licensee is under a continuing duty to update the information contained in the application for a loan officer license, and to report to the division all changes or additions to information in the application within thirty days of any such change or addition. Any name change request must be accompanied by a copy of the name change order, such as, marriage license, divorce decree, or court order.
- (N) License display. The original loan officer license shall be deposited with and maintained by the employing registrant at the registrant's main office. A copy of the license shall be prominently displayed in the office where the loan officer principally transacts business.

**1301:8-7-10      Loan officer renewal application for licensure; issuance of renewal license; expiration.**

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- (A) All licenses expire on the thirtieth day of April of each year regardless of when the license was issued, ~~regardless of whether ninety days have passed since the license was first issued, and regardless of whether the licensee complied with the examination requirement of section 1322.051 of the Revised Code.~~
- (B) A licensee is responsible for ensuring that his or her renewal application is timely filed. The division will attempt to send reminder notices to licensees at the home, work, or to an e-mail address on file, but failure of a licensee to receive the reminder for any reason will not relieve the licensee of the renewal deadline.
- (C) A renewal application must be timely filed to prevent any lapse in licensing and the ability to originate residential mortgage loans:
- (1) The application must be received by the division no later than the thirtieth day of April. The license of a person whose renewal application is received by the thirtieth day of April is considered active and the person may continue to engage in activities that require a license.
  - (2) Renewal applications received on the first day of May to the thirty-first day of May must include a one hundred dollar late fee in addition to regular renewal fees. The license of a person whose application is received on the first day of May to the thirty-first day of May is considered active and the person may continue to engage in activities that require a license.
  - (3) If a renewal application is received after the thirty-first day of May, the application will not be accepted for filing and will be returned. The license of a person whose application is received after the thirty-first day of May is expired. Expiration terminates the right to engage in any activity described in paragraph (B) of rule 1301:8-7-08 of the Administrative Code. The individual may obtain a new license by complying with the requirements and procedures for obtaining an original license found in division (A) of section 1322.031 of the Revised Code, and paragraph (A) of rule 1301:8-7-09 of the Administrative Code. Engaging in any activity described in paragraph (B) of rule 1301:8-7-08 of the Administrative Code on or after the first day of May by an individual who fails to submit a renewal application to the division by the thirty-first day of May constitutes unlicensed activity in violation of division (B) of section 1322.02 of the Revised Code, and both the individual and the employing registrant may be subject to administrative and or criminal penalties.
- (D) To be eligible for renewal, a loan officer must have fulfilled the annual continuing education requirements of the preceding calendar year, and must continuously satisfy all requirements of initial licensure.
- (E) A licensee who wishes to apply to renew his or her license must submit:

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- (1) A non-refundable application fee of one hundred dollars and any applicable penalty fee for late filing as set forth in paragraph (C)(2) of this rule;
  - (2) A completed license renewal application form approved by the superintendent of the division of financial institutions. If the renewal application is incomplete when submitted, it ~~will not be accepted and will be~~ may be deemed unacceptable and returned for completion. An application is deemed incomplete if it does not have the necessary documents attached; if it is not accompanied by the appropriate fee(s); if any portion of it is not properly executed; if any portion of it is missing; or if any questions are unanswered, incompletely answered or missing any required details; ~~and must submit a completed license renewal application form approved by the superintendent of the division of financial institutions. If the renewal application is incomplete when submitted, it will not be accepted and will be returned for completion. An application is deemed incomplete if it does not have the necessary documents attached; if it is not accompanied by the appropriate fee(s); if any portion of it is not properly executed; if any portion of it is missing; or if any questions are unanswered, incompletely answered or missing any required details; and~~
  - (3) Any other information requested by the superintendent.
- (F) A licensee cannot transfer his or her license by filing a renewal application through or with a new registrant. To transfer a license, a licensee must comply with rule 1301:8-7-11 of the Administrative Code.
- (G) Each question on the license application is material to the licensing process. Submitting false or incomplete information or omitting information in connection with a license application is grounds for denial or revocation of the license and may subject the applicant to civil or criminal penalties.
- (H) If the information contained in a renewal application for licensure as a loan officer becomes inaccurate for any reason before the applicant becomes licensed, the applicant shall be responsible for correcting the inaccurate information within ten days of the change. Any name change request must be made in compliance with paragraph (I) of rule 1301:8-7-19 of the Administrative Code and must be accompanied by a copy of the name change order, such as, marriage license, divorce decree, or court order. Any address change must comply with paragraph (H) of rule 1301:8-7-19 of the Administrative Code.
- (I) An applicant may request the withdrawal of a renewal application prior to a determination of the application being made by the superintendent of the division of financial institutions by submitting a written request that the application be withdrawn. A request to withdraw a loan officer license application can only be submitted by the applicant. The application may only be withdrawn with the permission of the superintendent.

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- (J) All application fees are non-refundable regardless of whether an application is withdrawn or denied.
- (K) Upon approval of a renewal application, a license will be issued for the remainder of the annual licensure period, which ends the following thirtieth day of April.

**1301:8-7-11      Loan officer license transfer.**

(A) A licensee must file a transfer application when:

- (1) The licensee desires to change his or her employment from one registrant to another; or
- ~~(2) The licensee chooses to inactivate his or her license and to place the license in escrow; or~~
- ~~(3)~~(2) The licensee wants to reactivate his or her license and to transfer the license from escrow to a registrant.

(B) Filing a transfer application does not authorize an individual to originate mortgage loans for the registrant to which the individual is transferring. To be authorized to originate mortgage loans for the registrant to which the individual is transferring, either the license must be transferred and a new license printed identifying the new registrant, or a completed transfer application must be filed with the division and the registrant to which the individual is transferring must have received written confirmation from the superintendent in accordance with division (E)(2) of section 1322.031 of the Revised Code.

(C) A transfer application will not be processed or granted until all required information is received. To apply for a license transfer, a licensee must submit:

- (1) A non-refundable license transfer fee of fifteen dollars;
- (2) A "Certificate of Employment" form approved by the superintendent of the division of financial institutions; and
- (3) A properly completed "Loan Officer License Transfer" form approved by the superintendent of the division of financial institutions.

(D) Upon approval of a transfer application, a license will be issued for the remainder of the annual licensure period.

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- (E) All licenses expire annually on the thirtieth day of April. Compliance with section 1322.041 of the Revised Code and rule 1301:8-7-10 of the Administrative Code are required for renewal of a license.

**1301:8-7-12 Operations manager.**

- (A) Each registrant or applicant for a mortgage broker certificate of registration shall designate one individual to act as the company's operations manager and must grant the individual sufficient authority over the mortgage broker business to carry out the duty of ensuring the daily operations and management of the business comply with all applicable state and federal laws.
- (B) Only one individual shall be designated operations manager regardless of the number of registered office locations or employees.
- (C) No individual shall be permitted to act as operations manager without being approved by the superintendent of the division of financial institutions. An individual may be put in place subject to the superintendent's approval, but the superintendent must receive a complete "Request for OM Approval" form within ten business days of the appointment.
- (D) The superintendent of the division of financial institutions shall be authorized to do a criminal background check, obtain a credit report, and require a financial statement and other pertinent information as the superintendent may require to satisfy the superintendent that the mortgage broker business will be operated by the individual responsibly and in compliance with sections 1322.01 to 1322.12 of the Revised Code, any regulation adopted pursuant thereto, or any other state or federal law or regulation applicable to the business of mortgage lending
- (E) To qualify for approval as an operations manager, the superintendent of the division of financial institutions must find that the individual is knowledgeable about the registrant's or applicant's activities conducted under sections 1322.01 to 1322.12 of the Revised Code, has sufficient authority over the registrant's daily activities and mortgage broker business to carry out the statutory responsibilities of an operations manager, and that the individual:
- (1) Holds an active loan officer license issued by the division that is not subject to suspension, revocation or non-renewal;

If the individual has simultaneously applied for a loan officer license and approval as an operations manager, successful completion of the examination requirement for operations managers under division (A) of section 1322.051 of the Revised Code shall satisfy the examination requirement for loan officers under division (B) of section 1322.051 of the Revised Code. However,

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successful completion of the loan officer examination requirement of division (B) of section 1322.051 of the Revised Code shall not satisfy the operations manager examination requirement of division (A) of section 1322.051 of the Revised Code.

(2) Possesses at least three years of experience in the mortgage and lending field that complies with paragraphs (F) and (G) of this rule; ~~and~~

(3) Has successfully completed the ~~examination requirement of division (A) of section 1322.051 of the Revised Code~~ pre-licensing education required by division (A)(5) of section 1322.03 of the Revised Code or met the alternative educational requirements set forth in paragraph (D) of 1301:8-7-28 of the Administrative Code.

~~(a) An individual who has submitted a request for approval as operations manager is not eligible to sit for the examination until the superintendent of the division of financial institutions receives a completed "Request for OM Approval," including a criminal records check, and any other information required by the superintendent. The superintendent may refuse to permit an individual to sit for an examination if the request or criminal records check contains any information that could disqualify the individual for approval or if the superintendent has any other information which, if true, could disqualify the individual. A person approved and authorized by the division to act as a registrant's operations manager prior to January 1, 2007 shall not be required to take pre-licensing education to continue as that registrant's operations manager;~~

~~(b) If the individual fails to successfully complete the examination within ninety days of being notified by the superintendent that he or she has been approved to sit for the exam, the superintendent may consider the pending application for a mortgage broker certificate of registration that is dependent on the operations manager approval, withdrawn, or the superintendent may suspend the registrant's mortgage broker certificate of registration until an individual is approved. If a registrant is unable to designate an individual who meets the approval of the superintendent within one hundred eighty days of the termination date of the individual last approved as the registrant's operations manager, the superintendent may revoke the registrant's certificate of registration for operating without an approved operations manager. A person approved and authorized by the division to act as a registrant's operations manager prior to January 1, 2007 shall be required to complete pre-licensing education to become another registrant's operations manager after January 1, 2007;~~

~~(c) A person licensed by the division solely to act as a loan officer prior to January 1, 2007 shall be required to complete pre-licensing education to become a registrant's operations manager after January 1, 2007; and~~

(4) Has successfully completed the examination requirement of division (A) of section 1322.051 of the Revised Code.

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(a) An individual who has submitted a request for approval as operations manager is not eligible to sit for the examination until the superintendent of the Division of Financial Institutions has received a completed "Request for OM Approval," including a criminal records check, and any other information required by the superintendent. The superintendent may refuse to permit an individual to sit for an examination if the request or criminal records check contains any information that could disqualify the individual for approval or if the superintendent has any other information which, if true, could disqualify the individual;

(b) If the individual fails to successfully complete the examination within ninety days of being notified by the superintendent that he or she has been approved to sit for the examination, the superintendent may consider the pending application for a mortgage broker certificate or registration that is dependent on the operations manager's approval, withdrawn, or the superintendent may suspend the registrant's mortgage broker certificate of registration until an individual is approved. If a registrant is unable to designate an individual who meets the approval of the superintendent within one hundred eighty days of the termination date of the individual last approved as the registrant's operations manager, the superintendent may revoke the registrant's certificate of registration for operating without an approved operations manager.

(F) For purposes of paragraph (E)(2) of this rule and division (A)(4) of section 1322.03 of the Revised Code, satisfactory proof of experience may include but is not limited to:

- (1) Copy of IRS form W-2 for the tax years covering the experience requirement;
- (2) Completed and signed IRS form 4506 which enables the division to verify the W-2; and
- (3) Other documents or information required by the division necessary to verify completion of the experience requirement. Experience requirement may be verified by the division directly with the employer and tax authorities.

(G) For purposes of paragraph (E)(2) of this rule and division (A)(4) of section 1322.03 of the Revised Code, the three years, or thirty-six months, of experience must 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 must have been gained by directly soliciting, processing, placing and negotiating mortgage loans for or as a mortgage broker, or with a financial institution, mortgage lending institution, or other lending institution. The individual must have had direct contact and interaction with buyers during all phases of making or brokering real estate mortgage loans, and not compartmentalized experience in one phase, such as processing. Other

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experience related specifically to the business of mortgage loans 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.  
Mobile home or manufactured housing home-only lending or credit department.
- (H) Any individual who wishes to present experience and or education which is not in accord with paragraphs (F) and (G) of this rule may petition the superintendent to consider alternative education or experience which the individual feels would satisfy the experience requirement. Such petition shall include documentation of the experience at issue and its relationship to mortgage activities.
- (I) If the individual designated as the operations manager ceases to act as the operations manager for any reason, including paragraph (N) of this rule, the registrant shall:

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- (1) Within thirty days, designate another individual as the operations manager;
  - (2) Within ten days after the designation described in paragraph (I)(1) of this rule, notify the superintendent of the division of financial institutions by submitting a "Request for OM Approval" form to the division.
- (J) Once the individual has been approved as the registrant's operations manager, the registrant shall receive from the superintendent of the division of financial institutions an approval letter indicating the name of the licensed loan officer who has been approved as the registrant's operations manager and the effective date of the approval. The approval letter shall be conspicuously posted in each of the registrant's registered offices.
- (K) While acting as an operations manager, the individual is prohibited from working for any registrant in any capacity other than the registrant for which the individual has been designated as the operations manager.
- (L) An operations manager shall record his or her loan officer identification number on mortgage loan origination disclosure statements in accord with paragraph (A)(2) of rule 1301:8-7-15 of the Administrative Code.
- (M) An operations manager is under a continuing duty to update the information contained in the request for approval as operations manager and any notification requirements of licensure under Chapter 1322. of the Revised Code or this chapter.
- (N) An individual acting as an operations manager must hold an active loan officer license at all times while serving as operations manager. Should the individual's license cease to be active for any reason, the individual's operations manager approval is automatically terminated.
- (O) An individual approved as an operations manager must complete a minimum of six hours of approved continuing education every calendar year in compliance with section 1322.052 of the Revised Code and rule 1301:8-7-18 of the Administrative Code.
- (P) If an individual is approved to act as an operations manager for a registrant and subsequently ceases serving in that capacity for any reason, but later desires to be reapproved, the individual shall submit a new "Request for OM Approval" form. The superintendent may waive re-submission of some or all documentation required for approval.
- (Q) Those individuals approved by the superintendent of the division of financial institutions as an operations manager as of the effective date of this rule shall be issued, without charge, a loan officer license within sixty days of the effective date of this rule; shall not be required to sit for a loan officer license examination under

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division (B) of section 1322.051 of the Revised Code, as the successful completion of the examination requirement of division (A) of section 1322.051 of the Revised Code shall satisfy the requirement of division (B) of that section; and shall be subject to the loan officer license renewal requirements of section 1322.041 of the Revised Code and rule 1301:8-7-10 of the Administrative Code.

**1301:8-7-15**      **Mortgage loan origination disclosure statements and good faith estimates and other required disclosures to buyers.**

(A) Within three business days after taking an application for a loan from a buyer, a registrant shall deliver to the buyer a "Mortgage Loan Origination Disclosure Statement" which shall be on the form approved by the division and posted on its web site for that purpose, and shall include:

- (1) The name, address, and telephone number of each buyer;
- (2) The typewritten name of the loan officer who originated the loan on behalf of the registrant, the loan officer identification number listed on the loan officer's license issued by the division, and the signature of the loan officer;
- (3) The street address, telephone number and facsimile number of the registered office from which the loan officer is working and the number on the certificate of registration issued to the office by the division;
- (4) A declaration of whether the buyer will be required to pay for the services of any bona fide third party service providers if the registrant is unable to assist the buyer in obtaining a mortgage loan;
- (5) A clear description of the method by which the fee to be paid to the registrant by the buyer will be calculated and a good faith estimate of the total dollar amount of the fee, as required by division (A)(1)(f) of section 1322.062 of the Revised Code. The fee calculation method shall disclose any and all compensation received by the registrant from the buyer, regardless of how the compensation is identified on mortgage loan disclosures. The disclosure of the fees must be expressed as the total dollar amount of the fees the registrant anticipates receiving from the buyer for originating the loan. If the registrant bases its fees, in whole or in part, on a percentage of the principal amount of a loan, the registrant shall disclose the dollar amount of fees in the required good faith estimate by multiplying the percentage to be charged by the anticipated principal amount of the loan. Disclosure of ranges of dollar amounts or percentages, or statements that the fees are "to be determined" are prohibited.
- (6) A statement informing the buyer that the registrant may also receive compensation from the lender in the mortgage loan transaction;

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- (7) A description of all the services the registrant has agreed to perform for the buyer;
- (8) Notice to the buyer that the buyer is not obligated to use the registrant's services in obtaining a residential mortgage loan;
- (9) If the mortgage loan to be originated by the registrant will exceed ninety per cent of the value of the property involved, the boldface statement required by division (A)(1)(j) of section 1322.062 of the Revised Code as set forth by the form approved by the division and posted on its web site for this purpose and;
- (10) A place for the signature of each buyer acknowledging receipt of the required "Mortgage Loan Origination Disclosure Statement."
- (B) As used in division (B) of section 1322.062 of the Revised Code, the phrase "twenty-four hours" is interpreted to mean "one business day" in order to avoid violations caused by Sundays and national holidays.
- (C) 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 broker compensation the registrant receives from the buyer, but does not include any fees paid to the registrant by lenders in the form of yield spread premiums or service release premiums, nor does the phrase include any fees collected by registrants from buyers on behalf of bona fide third party service providers.
- (D) The good faith estimate statement required by division (D) of section 1322.062 of the Revised Code must disclose all of the following:
- (1) All of the information required for estimates by the "Real Estate Settlement Procedures Act," 88 Stat. 1724, 12 U.S.C. 2601 et seq., in effect on January 1, 2007; and
- (2) The "nature of relationship" and "notice to borrower" statements as written in division (D) of section 1322.062 of the Revised Code and set forth by the form approved by the division and posted on its web site for this purpose. The required "nature of relationship" and "notice to borrower" disclosure form shall be appended to the required good faith estimate disclosure.
- (E) As used in division (A) of section 1322.063 of the Revised Code, the phrase "twenty-four hours before a loan is closed" is interpreted to mean "one business day" in order to avoid violations caused by Sundays and national holidays.
- (F) Timely disclosures.

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- (1) As used in division (B) of section 1322.064 of the Revised Code, the phrases "twenty-four hours after the change occurs" and "twenty-four hours before the loan is closed" are interpreted to mean "one business day after the change occurs" and "one business day before the loan is closed" in order to avoid violations caused by Sundays and national holidays.
- (2) In order to document that notifications of materials changes to the terms and conditions of loans required by division (B) of section 1322.062 of the Revised Code, division (A) of section 1322.063 of the Revised Code, and divisions (A)(1) and (A)(2) of section 1322.064 of the Revised Code are made to buyers in a timely manner, the registrant shall do one of the following:
- (a) Obtain the signature of the buyer on a dated statement in which the buyer 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 buyer;
  - (c) Maintain a record by time-dated computer e-mail that the disclosures were provided by e-mail to and received by the buyer; 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 buyer.
  - (e) The disclosures required by section 1322.064 of the Revised Code shall be provided on the form approved by the division and posted on its web site for this purpose.
- (G) A registrant shall maintain in its records for each loan file the disclosure form required herein, both the initial and any revised versions, as executed by the borrower(s) and the responsible loan officer.

**1301:8-7-17      Licensing examination.**

- (A) The following provisions concern the loan officer licensing examination required by division (B) of section 1322.051 of the Revised Code:
- (1) ~~Each~~ Prior to the issuance of a license each licensee shall successfully complete a loan officer license examination, approved by the superintendent of the division of financial institutions, within ninety days after the original issuance of the loan officer license.

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- (2) No individual shall be permitted to sit for an examination until the individual has been ~~issued a loan officer license~~authorized to do so by the division of financial institutions. An individual who has submitted a loan officer application for approval is not eligible to sit for the examination until the superintendent of the division of financial institutions receives a completed application, including a criminal records check, and any other information required by the superintendent. The superintendent may refuse to permit an individual for approval or if the superintendent has any other information which, if true, could disqualify the individual.
- (3) ~~A licensee~~An applicant is only permitted to sit for an examination during his or her eligibility period of ninety days, which begins on the day the ~~license is originally issued and ends at the close of business on the ninetieth day after the day the license was originally issued~~notice of authorization is sent to the applicant and examination provider.
- (4) There is no limit as to how many times a ~~licensee~~person may test during his or her eligibility period. A fee may be assessed for each test.
- (5) ~~The ninety day eligibility period for a licensee to successfully complete the licensing examination cannot be extended for any reason~~An application will be deemed deficient and withdrawn if the applicant fails to successfully complete the required loan officer examination within the ninety day period of eligibility.
- (6) ~~Pursuant to division (B) of section 1322.051 of the Revised Code, if a licensee fails to successfully complete the loan officer licensing examination within ninety days from the date the license was first issued, the license is terminated by operation of law.~~
- ~~(7)~~(6) Successful completion of the examination requires a score of ~~seventy percent~~per cent or higher. Successful completion of the examination alone, however, does not guarantee division approval of the individual's loan officer application.
- ~~(8)~~(7) The examination will consist of questions ~~concerning~~including Chapter 1322. of the Revised Code, mortgage loan processes and programs, definitions of terms basic to the industry, and general provisions of applicable state and federal laws.
- (B) The following provisions apply to the operations manager examination required by division (A) of section 1322.051 of the Revised Code.
- (1) An individual who has submitted a request for approval as operations manager is not eligible to sit for the examination until the superintendent of the division of financial institutions receives a completed "Request for OM Approval," including a criminal records check, and any other information required by the superintendent. The superintendent may refuse to permit an individual to sit for

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an examination if the request or criminal records check contains any information that could disqualify the individual for approval or if the superintendent has any other information which, if true, could disqualify the individual.

- (2) If the individual fails to successfully complete the examination within ninety days of being notified by the superintendent that he or she has been approved to sit for the exam, the superintendent may consider the pending application for a mortgage broker certificate of registration that is dependent on the operations manager approval, withdrawn, or the superintendent may suspend the registrant's mortgage broker certificate of registration until an individual is approved. If a registrant is unable to designate an individual who meets the approval of the superintendent within one hundred eighty days of the termination date of the individual last approved as the registrant's operations manager, the superintendent may revoke the registrant's certificate of registration for operating without an approved operations manager.
- (3) There is no limit as to how many times an individual may test during his or her eligibility period. A fee may be assessed for each test.
- (4) Successful completion of the examination requires a score of seventy ~~percent~~per cent or higher.
- (5) The examination will consist of questions ~~concerning~~including Chapter 1322. of the Revised Code, mortgage loan processes and programs, definitions of terms basic to the industry, and general provisions of applicable federal laws.
- (6) Successful completion of the operations manager examination alone does not guarantee division approval of the individual as operations manager or the issuance of the applicant's certificate of registration.

## **1301:8-7-18 Continuing education.**

(A) In this rule, the following definitions shall apply:

- (1) "CE" means continuing education.
- (2) "Approved CE" means a continuing education course that has been approved by the superintendent of the division of financial institutions for credit in accordance with section 1322.052 of the Revised Code. A continuing education course may be offered through classroom instruction, on-line computer learning, or video taped instruction.
- (3) "Hour" shall mean sixty minutes of class time, of which fifty minutes shall be instruction, with a maximum of ten minutes of break per hour.

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(4) "Attendee" is a licensee or license applicant who attends an approved CE course.

(5) "Licensee" includes loan officers and operations managers.

(6) "Approved Provider" means a person approved by the superintendent of the division of financial institutions to offer approved CE courses to attendees for credit and who is responsible for ensuring the division is timely informed of an attendee's completion of an approved CE course.

(B) Each licensee shall complete at least six credit hours of approved CE for each calendar year. Credits earned in excess of six hours in any calendar year may not be carried over to the next calendar year. Credit will be given to an attendee who has a loan officer license application on file with the division at the time the attendee completes the approved CE course. The six credit hours may be obtained in a single program, course or activity or in separate courses, programs or activities.

~~The six credit hours may be obtained in a single program, course or activity or in separate courses, programs or activities.~~

(C) A licensee is exempt from the CE requirement of section 1322.052 of the Revised Code for the calendar year in which the licensee is first issued a license under section 1322.041 of the Revised Code. Should the individual's license be cancelled for any reason and the individual reapply and be issued a new license in a different calendar year, the exemption shall not apply and the individual will be required to complete a minimum of six credit hours of approved CE each calendar year.

(D) When a licensee who is also a designated operations manager at the time the licensee completes any approved CE course, credit shall be applied to both the individual's ~~loan offer~~ officer CE requirement and the registrant's operations manager's CE requirement. Should the licensee leave the employ of the registrant after earning CE credits, the credits earned by that licensee will not accrue to the benefit of any other registrant.

(E) Provider approval. Application for approved provider status shall be made on a form prescribed by the superintendent and shall include the following:

(1) The name and address of the applicant;

(2) A sworn statement of whether the applicant has been convicted in the ten years preceding submission of the application of any crime (misdemeanor or felony) involving real estate, mortgage lending, settlement services or appraisal work;

(3) A sworn statement of whether the applicant has filed for or received bankruptcy protection more than once within the ten years preceding submission of the application;

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- (4) A sworn statement of whether the applicant has had any prior approval to conduct or offer education revoked, suspended or not renewed by any state or federal regulatory authority;
  - (5) The names and addresses of all persons or entities holding an interest of five percent or more in the applicant;
  - (6) A sworn statement of whether any person or entity holding an interest of five percent or more in the applicant has been convicted in the ten years preceding submission of the application of any crime (misdemeanor or felony) involving real estate, mortgage lending, settlement services or appraisal work;
  - (7) A sworn statement of whether any person or entity holding an interest of five percent or more in the applicant has filed for or received bankruptcy protection more than once within the ten years preceding submission of the application;
  - (8) An application for the approval of at least one CE course in the form established in paragraph (J) of this rule;
  - (9) A certificate of good standing issued by the Ohio secretary of state that is not more than sixty days old, ~~if applicable.~~ if the applicant is a corporation, limited liability company, partnership, association, or any other entity required to register with the secretary as a domestic or foreign entity and if the entity is engaging in business under a trade name, then the applicant shall also provide proof of the applicable filing with the Ohio secretary of state. In the event the applicant is a natural person doing business under a trade name or other fictitious name, then proof that the person has made the appropriate filing with the Ohio secretary of state; and
  - (10) Any other information the superintendent requests.
- (F) If the applicant submits an application that is incomplete or if the application lacks information deemed necessary by the division, the division may return the application with a letter indicating areas which must be addressed in order for the division to continue the approval process. If the division retains the incomplete application and notifies the applicant in writing that more information is needed and the applicant fails to submit the requested information within ninety days, the superintendent may consider the application withdrawn.
- (G) The superintendent shall approve an application for an approved provider if the superintendent finds:
- (1) ~~The applicant is licensed and in good standing with the Ohio secretary of state to conduct business in this state, if applicable.~~ has made all applicable filings with the Ohio secretary of state as set forth in paragraph (E)(9) of this rule;

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- (2) Neither the applicant nor any person or entity holding an interest of five per cent or more in the applicant has been convicted in the ten years preceding submission of the application of any crime (misdemeanor or felony) involving real estate, mortgage lending, settlement services or appraisal work;
  - (3) The applicant has not had any prior approval to conduct or offer education revoked, suspended or refused to be renewed by any state or federal regulatory authority; and
  - (4) Neither the applicant nor any person holding an interest of five percent or more have a history involving multiple bankruptcies that indicates that the applicant or such person is unable to effectively run a company, which could ultimately jeopardize the ability of attendees to receive CE credit.
- (H) If a provider's application is approved the provider will be notified in writing of this approval as a CE provider at the time the provider's first course is approved.
- (I) Once approved as a CE provider the provider shall remain approved unless and until the superintendent finds the provider has not complied with this rule. If the superintendent finds the provider has not complied with this rule, the superintendent shall send notice, via certified mail, to the provider stating that the provider is no longer approved. Upon receipt of the notice, the provider will be permitted to offer any previously approved CE course that is scheduled to take place within thirty days of receipt of the notice to ensure the provider's non-compliance does not adversely affect attendees.
- (J) Course approval. Courses consisting of more than twenty per cent video-taped information are not permitted, however online instructions courses may be approved. All requests for approval of a course must be made in the manner prescribed by the superintendent and shall contain the following information:
- (1) A description of:
    - (a) The number of requested credit hours and length of the course. For purposes of this rule a credit hour must provide for no less than fifty minutes of instruction. Breaks, introductions, lunches, announcements, or other non-instruction time is to be excluded in calculating the credit hours requested. Each course shall be a minimum of one credit hour;
    - (b) The purpose or objective of the course and how the material offered will increase the knowledge of mortgage lending and related subjects for attendees;
    - (c) The course tuition and the provider's refund fee policy;

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- (d) The method of presentation;
  - (e) The time, date, and location of the course, if known. If the course will be offered more than once, the date, time and location for each offering shall be provided if known. The provider may submit for approval any additional dates not already submitted with the initial application for the course on an as-needed basis. Any additional date submission should be made at least ten days prior to the proposed additional date. Such submissions may be made by mail or by electronically emailing a completed and readable scanned image file of the additional date form approved by the superintendent to the person designated to receive additional date submissions. Additional dates submitted electronically shall be deemed received by the superintendent on the day the scanned image file is sent to the proper person designated by the superintendent; and
  - (f) The name and address of the course ~~instructor(s)~~instructor. ~~For any course which pertains to loan origination or processing, the instructor for that portion of the course must have at least three years' experience in such work, and must submit a resume outlining the requisite experience.~~
- (2) A detailed content outline which contains a description of each topic to be covered by the course. This outline must specify the time components spent on each topic and the description must be sufficiently detailed to justify the request for each credit hour. The outline shall contain:
- (a) The proposed time component;
  - (b) The specific material to be covered in each time component; and
  - (c) The justification for the time allotted to each component to teach or instruct that component.
  - (d) ~~The name, address and resume of the proposed instructor for any loan origination or loan processing topic. Instructors teaching loan origination or loan processing must have at least three years' personal experience in such topic, and must submit a resume in compliance with paragraph (J)(1)(f) of this rule and any other information required by the superintendent to show that the instructor is so qualified.~~
- (3) A description of materials to be employed by the instructor in teaching the course including a copy of the promotional brochures currently in use or proposed to be used for the course once approved by the superintendent. If a course is advertised prior to gaining the approval of the division, all advertisements pertaining to that course disseminated prior to division approval must contain a conspicuous disclosure that continuing education credits are pending approval of the division.

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~~If a course is advertised prior to gaining the approval of the division, all advertisements pertaining to that course disseminated prior to division approval must contain a conspicuous disclosure that continuing education credits are pending approval of the division.~~

- (4) A description of how the course is to be administered, including the method of verification of attendance or completion of the course.

## (K) Provider practices and CE course rules.

- (1) A course must be offered and presented as approved by the division.
- (2) A provider must inform the division, in writing, of any change in a course's location, date or time no later than ~~fifteen~~ ten days prior to the course. The superintendent has the discretion to waive the ten day notice requirement where the circumstances for the change were beyond the control of the provider.
- (3) Providers may not change a course's content or outline without prior written approval of the division. Failure to obtain such written approval in advance of the course may result in the denial of CE credit for the course and disapproval of the provider's approved status to offer CE credit.
- (4) Providers must submit an attendance roster, in a form prescribed by the division, to the division within fifteen days after a course is completed. The roster shall contain the identifying information of any licensee who completed the course, the date the course was completed, and any other information requested by the superintendent. One roster shall be submitted for each course offering. Failure of a provider to timely submit the identifying information of any licensee who completed a course may result in the licensee not receiving credit for the course, and could result in the disapproval of the provider's ability to offer continuing education credits.
- (5) The date the course is completed must be recorded and submitted to the division. Any other date, such as the date a provider receives a registration or proctor form or payment is received, is insignificant. Providing the division with any date other than the date a course is actually completed may result in the disapproval of a provider's right to offer continuing education.
- (6) Providers shall issue each attendee a certificate of completion identifying the name of the course, the course location and completion date, and the full name of the approved provider.
- (7) Providers shall not issue certificates of completion to persons who do not attend or complete the scheduled hours for any CE course.

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- (8) Providers shall be responsible for determining that the attendee or person completing the course is the actual person scheduled to complete the course.
- (9) A course must be conducted as advertised and represented to the division. A course may not be offered for more credits than approved by the division, unless the division approves such modification prior to the course presentation. If an approved course is not offered in its entirety because of an emergency, the provider must notify the division within three business days of the course, and must provide a written account of the emergency, a schedule of what information was provided, and the course roster.
- (10) The same title submitted to the division for approval must be the same title used for the course and advertising for the course.
- (11) Any material or instruction given concerning an interpretation of sections 1322.01 to 1322.12 of the Revised Code must be accompanied with a disclaimer that the interpretation may differ from that of the division.
- (12) The superintendent of the division of financial institutions or his representative may audit at no cost any course at any time with or without advanced notice to the instructor or provider.
- (13) To avoid any conflict of interest or situations in which a provider or instructor may be called as a witness, while serving or acting as an approved provider or course instructor, the provider or instructor shall not represent a person against the division on a matter concerning continuing education.
- (14) A provider may not discount prices for CE courses as an incentive, in exchange for, or as a promotion for any real estate, title, appraisal, lending or mortgage broker business affiliated with the provider or any person owning any interest in the provider.
- (15) All courses must be open to all licensees and license applicants.
- (16) The use of any course to promote any particular loan product, lender, mortgage broker or settlement service is prohibited.

(L) Requirements for distance education programs:

- (1) For purposes of this rule, the term "distance education" refers to continuing education programs in which instruction is accomplished through the use of media whereby teacher and student are separated by distance and/or by time;
- (2) The superintendent will approve a course in distance education for continuing education credit based upon a satisfactory review of the following criteria:

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- (a) The application materials submitted pursuant to paragraphs (E), (G), and (J) of this rule;
  - (b) The course is designed to assure that students actively participate in the instructional process while completing the course by utilizing techniques that require substantial student interaction with the instructor, other students, written course materials, or a computer program. With the exception of proctored home-study courses, the course design shall not permit students to sit passively and observe instruction or read instructional materials;
  - (c) The course, when taken without interruption, consists of no more than six hours of distance education;
  - (d) If in each unit of instruction there is no activity from the student after fifty minutes of instruction time, the course will shut down and the student will have to begin from the beginning of the unit;
  - (e) The provider gives students an orientation or information package which contains all necessary information about the course, including but not limited to information about the course subject matter and learning objective, procedures and requirements for satisfactory course completion, special requirements with regard to computer hardware and software or other equipment, and the availability of instructor or technical support;
  - (f) The provider gives appropriate instructor and technical support to enable students to satisfactorily complete the course;
  - (g) The provider utilizes procedures that provide reasonable assurance of student identity and that the student receiving the continuing education credit for completing the course actually performed all of the work required to complete the course;
  - (h) The provider controls navigation through the course to ensure students master the material on a unit-by-unit basis by use of some means of assessment such as a quiz;
  - (i) The provider utilizes a clock/time on each screen to control navigation through the course to ensure that course completion time equals the amount of continuing education credit hours received.
- (3) Course rosters for distance education classes must be submitted to the superintendent every fifteen days.

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(M) Instructor qualification. Instructors, seminar and conference leaders, lecturers, and others who present a continuing education requirement program must meet at least one of the following qualifications:

- (1) Possession of a bachelor's degree in a related field to that in which the person is to teach, from a school listed as an institution of higher learning by the United States department of education, or from a comparable school of a foreign country; or
- (2) Possession of a valid teaching credential or certificate from Ohio or another state authorizing the holder to teach in the field of instruction in which the person is to teach; or
- (3) Three years full-time experience in real estate mortgage lending or law; or
- (4) Any combination of at least three years of full-time experience relevant to the applicable field and college level education;
- (5) Any person that has been disciplined through an administrative action by the Ohio division of financial institutions for a violation of Chapter 1322. of the Revised Code or the rule adopted there under is ineligible to serve as an instructor, seminar or conference leader or lecturer.

**1301:8-7-19      Notification requirements.**

Registrants, licensees and applicants for a certificate of registration or license are required to keep all information on file with the division of financial institutions current, including but not limited to the following:

- (A) Notification of sale, transfer, or hypothecation of stock, security, or other equitable, beneficial or ownership interest. If equitable, beneficial, or ownership interest in a registrant or applicant changes from the information provided on the registration application and the data on file with the division by an aggregate amount of five percent or more, the registrant or applicant is required to notify the superintendent of the division of financial institutions of such change and to submit the names, social security numbers, and addresses of any and all persons to which the interest was transferred within thirty days of the effective date of such transfer.
- (B) Notification of action alleging injury by a violation of any provision of Chapter 1322. of the Revised Code. Pursuant to division (B)(1) of section 1322.05 of the Revised Code ~~Within~~within ten business days of the ~~filing~~commencement of an action in any court in any jurisdiction brought by a buyer against a registrant or a loan officer of

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the registrant alleging injury by a violation of any provision of Chapter 1322. of the Revised Code, the registrant shall notify the division by:

- (1) Filing a "Notification of Action" form approved by the superintendent of the division of financial institutions;~~and~~
- (2) Attaching a copy of the complaint to the notification form described in paragraph ~~(A)~~above(B)(1) of this rule; and
- (3) Mailing the notification form and complaint described in paragraphs ~~(A) and (B)~~above(B)(1) and (B)(2) of this rule, via certified mail, to the superintendent of the division of financial institutions.

For purposes of division (B) of section 1322.05 of the Revised Code and this rule, the term "commencement of an action" shall mean upon service of a filed court complaint.

(C) Notification of judgment. A registrant shall, within ten business days of being served with notice of a judgment entered against the registrant or a loan officer of the registrant by a buyer injured by a violation of any provision of Chapter 1322. of the Revised Code, notify the superintendent of the division of financial institutions by:

- (1) Filing a "Notification of Judgment" form approved by the superintendent of the division of financial institutions; and
- (2) Attaching a copy of the judgment to the notification form described in paragraph ~~(A)~~above(B)(1) of this rule; and
- (3) Mailing the notification form and judgment described in paragraphs ~~(A) and (B)~~above(B)(1) and (B)(2) of this rule, via certified mail, to the superintendent of the division of financial institutions.

(D) Notification of guilty plea or criminal conviction. All registrants, licensees and applicants for a certificate of registration or license are required to notify the superintendent of the division of financial institutions of any guilty plea or conviction of a criminal offense involving theft, receiving stolen property, embezzlement, forgery , fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities within thirty business days of such plea or conviction by:

- (1) Filing a "Notification of Guilty Plea or Criminal Conviction" form approved by the superintendent of the division of financial institutions; and
- (2) Attaching a certified copy of the judgment or plea entry to the notification form described in paragraph ~~(A)~~above(B)(1) of this rule; and

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(3) Mailing the notification form and judgment described in paragraphs ~~(A) and (B)~~ above(B)(1) and (B)(2) of this rule, via certified mail, to the superintendent of the division of financial institutions.

(E) Statutory agent. Within ten business days of any change in a registrant's statutory agent designation or address, the registrant shall file with the superintendent of the division of financial institutions evidence that the registrant has filed such changes with the Ohio secretary of state.

(F) Office closure. At least thirty days prior to the closure of a registered office location, the registrant shall notify the division by filing an "Notice of Office Closure--Part A" form approved by the division. The form shall indicate 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. Within five business days after the closure, the certificate of registration issued to that location shall be surrendered to the division by returning it to the division along with the "Notice of Office Closure--Part B" form approved by the division.

Books and records must be maintained in compliance with rule 1301:8-7-06 of the Administrative Code, and must be accessible to the division, as such records remain subject to examination and or investigation under Chapter 1322. of the Revised Code. Written notice must be sent to the division of any change in location or the custodian of the records.

The closure of an office and the surrender of a certificate will not affect ~~the person's~~ a person's civil or criminal liability for acts committed before the surrender, and does not impair or affect the obligation of a preexisting lawful contract between the previous registrant and any person, including a borrower.

(G) Employment termination of loan officer or operations manager. If the employment of a loan officer or operations manager is terminated for any reason, a registrant shall return the individual's original loan officer license to the division of financial institutions within five business days after the termination by submitting the license along with the "Loan Officer Termination Notification" form approved by the division.

In accordance with paragraph (C)(3) of rule 1301:8-7-08 of the Administrative Code, the unexpired, uncanceled license of the loan officer or operations manager returned to the division shall be held in escrow. A license held in escrow is considered inactive and the holder of an inactive license is not authorized to originate.

(H) Change of address. Registrants and licensees must notify the superintendent of the division of financial institutions of a change in business or residence address using the following procedures. Merely placing the new address on correspondence or filings with the division, or any other attempt other than the procedures outlined in this rule, is insufficient.

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- (1) Change of resident address for licensee. A licensee shall notify the superintendent of the division of financial institutions of a change in the licensee's resident address within thirty days of such change. This change of address shall be made on a form proscribed by the superintendent of financial institutions.
- (2) Change of address of registered office. A registrant shall notify the superintendent of the division of financial institutions of an address change in any of the registrant's registered offices, at least thirty days prior to the effective date, by:
  - (a) Filing a completed "Mortgage Broker Office Relocation Application" form approved by the superintendent of the division of financial institutions, and attaching the following:
    - (i) A photograph of the new location showing a street view of the office;
    - (ii) A copy of the lease or rental agreement for the location at which the business will be transacted showing that the applicant is contractually responsible, or proof that the applicant owns the location;
    - (iii) If the application is for a location that is a residence, the applicant must submit:
      - (a) A certified copy of a zoning permit authorizing the use of the residence for commercial purposes; or
      - (b) A written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited.
    - (iv) If the relocation concerns the registrant's main office, the registrant shall submit an updated surety bond, rider or endorsement reflecting the new address with the application described in paragraph (H)(2)(a)(i) above; and
    - (v) A non-refundable fifteen dollar relocation application fee.
  - (b) Upon approval of the relocation application, a new certificate of registration shall be issued reflecting the new address. The registrant shall surrender the old certificate of registration to the division within five business days of receipt of the certificate reflecting the new office location. The registrant shall display the new certificate in accordance with paragraph (J) of rule 1301:8-7-02 of the Administrative Code.

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- (c) If the registrant intends to change its main office location to another registered office location, the registrant should not file a relocation application, but instead shall file a "Redesignation of Main Office Location" form approved by the superintendent of the division of financial institutions.
- (I) Name change of loan officer or operations manager. A licensee must notify the superintendent of the division of financial institutions of a legal name change within thirty days of such change by filing a "Loan Officer/Operations Manager Name Change" form approved by the superintendent of the division of financial institutions, and attaching a copy of the name change order, such as a marriage license, divorce decree or court order. A new license will be printed reflecting the new name. Once the license has been issued with the licensee's new name, use of the licensee's prior name in connection with loan origination activities is prohibited.
- (J) A registrant may, with the prior approval of the superintendent of the division of financial institutions, change its corporate name, its trade or business name, or service mark, provided:
- (1) The registrant and the proposed new name or mark complies with division (A)(1) of section 1101.15 of the Revised Code;
  - (2) The proposed new name or mark is duly registered with the Ohio secretary of state;
  - (3) The registrant submits proof that the surety bond has been executed in the new name;
  - (4) The registrant has given the superintendent of the division of financial institutions at least thirty days prior notice of the proposed new name or mark;  
and
  - (5) The superintendent of the division of financial institutions determines that the new name or mark is not likely to mislead or confuse buyers.
- (K) Upon approval of the registrant's new corporate, trade or business name, a new certificate of registration shall be issued reflecting the new name. The new certificate shall be displayed in compliance with paragraph (J) of rule 1301:8-7-02 of the Administrative Code.

**1301:8-7-20 Compensation.**

- (A) Compensation and reimbursements of any kind paid to an employee of a mortgage broker must be paid by check drawn either on an account of the registrant, but not

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the special account established and maintained pursuant to section 1322.08 of the Revised Code and rule 1301:8-7-05 of the Administrative Code, or on an account of a third party payroll administrator acting as the registrant's agent, and cannot instead be given, transferred or paid to any other person for the benefit of the employee. The check must be written to the employee in the employee's legal name.

- (B) A registrant may compensate an individual in accordance with paragraph (A) of this rule after the expiration or cancellation of the individual's loan officer license for work performed while the individual held an active license if the work is verifiable by documentary evidence.

**1301:8-7-21 Character, general fitness, and financial responsibility.**

In determining "character and general fitness" as those terms are used in ~~sections 1322.04~~ division (A)(10) of section 1322.04 of the Revised Code and 1322.041 ~~division (A)(5) of section 1322.041 of the Revised Code~~, the superintendent of the division of financial institutions shall consider, inter alia, whether the applicant, registrant or licensee:

- (A) Has been found guilty in any court of competent jurisdiction ~~within the prior ten years~~ of any felony;
- (B) Has been found guilty in any court of competent jurisdiction ~~within the prior ten years~~ of any misdemeanor involving any theft offense, deception, mortal-moral - turpitude, or any offense listed in sections 1322.03(A)(7) and 1322.031(A)(2) ~~division (A)(8) of section 1322.03 and division (A)(2) of section 1322.031~~;
- (C) Has been found liable in any court of competent jurisdiction for conduct constituting incompetence, misconduct or fraud in the origination of a residential mortgage loan, or in providing any financial, mortgage lending or real estate services;
- (D) Has been refused or denied registration or licensing by any state or federal agency granted disciplinary or regulatory authority by state or federal law;
- (E) Has been the subject of any suspension, expulsion, revocation, fine, censure or any other disciplinary action by any state or federal agency granted disciplinary or regulatory authority by state or federal law;
- (F) Has knowingly violated any provision of Chapter 1322. of the Revised Code or any rule of Chapter 1301:8-7 of the Administrative Code, or has aided or abetted any person in violating any such provision;
- (G) Has engaged in any conduct which would reflect on the reputation for honesty, integrity or competence in business and personal dealings of the applicant, registrant

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or licensee, including but not limited to the failure to provide complete and accurate information concerning the applicant's, registrant's or licensee's past;

- (H) Has failed to fully satisfy any judgment or award issued by any court of competent jurisdiction, or any administrative fine imposed by any state or federal regulatory body;
- (I) Has a record or pattern of disregard of the laws of this state, another state, or the United States;
- (J) Has knowingly aided or abetted an unlicensed or unregistered person in violating any provision of Chapter 1322. of the Revised Code and the rules promulgated thereunder.

### **1301:8-7-23**      **Mortgage broker appraisal misconduct.**

(A) In the case of any refinance loan or non-purchase second mortgage loan arranged by a mortgage broker, no registrant, licensee, mortgage broker employee, or person acting at their direction shall identify on the appraisal order form or communicate by any other means to any individual appraiser or firm either the loan amount or any other express or implied statement of the anticipated or desired appraisal value. A refinance loan for purposes of this rule provision includes any subsequent first mortgage loan on the borrower's primary residence or other property subject to coverage pursuant to division (A) of section 1322.01 of the Revised Code. Except as otherwise provided by this rule, a presumption that one is knowingly instructing and attempting to induce a licensed appraiser for the purpose of improperly influencing said appraiser's independent judgment shall arise against a registrant or licensee upon noncompliance with the above requirements when identifying or communicating any estimated or anticipated appraisal value or loan amount.

(B) In the case of any purchase money mortgage loan including any second mortgage loan connected to a sale transaction, no registrant, licensee, mortgage broker employee, or person acting at their direction, except as set forth herein, shall identify on the appraisal order form or communicate by any other means to any individual appraiser or firm either the loan amount or any other express or implied statement of the anticipated or desired appraisal value. However, the sales price of the property may be identified on the appraisal order form and a copy of the sales agreement given to the appraiser.

If the registrant or licensee is aware that a previous sales agreement at a lower price within the previous thirty days between the buyer and seller had been made for the property, the appraiser must be apprised of the earlier agreement and provided a copy of the agreement which shall be appended to any appraisal the registrant or licensee provides to the lender or anticipated purchaser of the note. A presumption

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that one is knowingly instructing and attempting to induce a licensed appraiser for the purpose of improperly influencing said appraiser's independent judgment shall arise against a registrant or licensee upon noncompliance with the above requirements when identifying or communicating any estimated or anticipated appraisal value or loan amount.

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

- (1) Requesting in writing or by electronic transmittal that the appraiser 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; or
- (2) Communicating information to an appraiser required by state or federal law, or by the "Uniform Standards of Professional Appraisal Practice," as in effect on January 1, 2007, as promulgated by the "Appraisal Standards Board of the Appraisal Foundation."

**1301:8-7-24      Restrictions on promises of future refinancing.**

- (A) Any promise to refinance a loan in the future at a lower interest rate or with more favorable terms may only be conditioned upon the property's appraised value, the prompt and timely payment of debt, and the borrower's income and credit score at the time of the refinance application remaining stable or increasing. The promise of future refinancing shall set forth the interest rate with specificity, the type of loan, and the term of the loan.
- (B) Any promise to refinance not authorized and signed by the registrant's operations manager or appropriate corporate officer, or which is made in nonconformity with this rule, shall constitute a dishonest and improper business practice.

**1301:8-7-25      Affiliated business disclosures.**

- (A) Disclosures required by division (A) of section 1322.075 of the Revised Code shall be made as an addendum to any affiliated business relationship disclosure required by federal law pursuant to 24 C.F.R. Part 3500.15 as in effect on January 1, 2007 and 12 U.S.C. section 2607 as in effect on January 1, 2007. If an affiliated business relationship disclosure is not required and applicable under 24 C.F.R. Part 3500.15 as in effect on January 1, 2007 and 12 U.S.C. section 2607 as in effect on January 1, 2007, then the disclosure shall be provided on a separate form. Proof of the disclosure shall be evidenced by obtaining the borrower's signature with date, which

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signature shall be requested at the time of disclosure. The signed copy shall be kept as a record of the registrant. The disclosure, if made in conjunction with a related federal affiliated business relationship disclosure shall be made at the time or times permitted by federal law for its counterpart. The disclosure, if made where there is no related federal affiliated business relationship disclosure, shall be made at the time of each referral or at the time that the good faith estimate is provided as required by division (D) of section 1322.062 of the Revised Code.

- (B) The term "settlement service provider" as used in section 1322.075 of the Revised Code includes, but is not limited to, title service providers, document preparation servicers, processors, and other bona fide third parties compensated for their services in connection with closing the mortgage loan.

**1301:8-7-26      Recording lawful instructions of the borrower.**

- (A) In aid of determining the lawful instructions from the borrower as required by division (A) of section 1322.081 of the Revised Code, registrants may provide borrowers the form approved by the division and posted on its web site for that purpose. The form, when used, shall be attached to the borrower's loan application and shall be completed and signed by the borrower. The form upon completion shall be retained by the registrant and a copy provided to the borrower. The purpose of the form will be to provide the borrower with the opportunity to clearly express the type of loan the borrower is seeking, the purpose of the loan, and the intended benefit of the loan.
- (B) If the borrower's instructions change prior to the provision of the initial good faith estimate required in division (D) of 1322.062 of the Revised Code, registrants using the form set forth herein shall provide a revised form expressing the changes. If the instructions change after that time, registrants may reflect the changes by use of the form approved for use pursuant to paragraph (F)(2)(e) of rule 1301:8-7-15 of the Administrative Code.
- (C) If the form established for use under this rule is not used, then the registrant must establish an alternative reasonable method of demonstrating that it followed the reasonable lawful instructions of the borrower.

**1301:8-7-27      Expedited hearing upon automatic suspension.**

- (A) Upon the issuance of any order of suspension pursuant to division (F) of section 1322.10 of the Revised Code, notice of the suspension shall be mailed by the division to the subject registrant or licensee by certified mail, return receipt requested, not later than the business day next succeeding such order. Such notice

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shall specify the particular basis in law for the suspension and 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. A copy of the notice shall be mailed to the attorney or other representative of record if the party has legal representation. For good cause the superintendent may continue such hearing on application of any interested party. In conducting such hearing the superintendent shall have all the authority and powers set forth in section 1322.10 of the Revised Code. Following such hearing the superintendent shall by order either confirm or terminate such suspension. The superintendent shall issue its final adjudicatory order within thirty days after receiving the hearing examiner's report and recommendation. A failure to issue the order within that time results in the dissolution of the suspension order but does not invalidate any subsequent final adjudicatory order.

- (B) If the suspension under division (F)(1) of section 1322.10 of the Revised Code is confirmed, and prior to or within three business days of such order of confirmation, the superintendent has issued a notice seeking a suspension penalty of a set duration, a denial of registration or licensure, or revocation of registration or licensure, together with any fine as penalty permitted by section 1322.10 of the Revised Code, then said suspension shall remain in place until a ruling on the merits of that subsequent administrative action or settlement is entered by the superintendent of financial institutions. If no notice is so issued, then the confirmed suspension shall end thirty days from the entry of the suspension confirmation order.
- (C) Nothing herein shall prevent or impair the authority of the superintendent from seeking injunctive relief in a court of common pleas as provided in division (B) of section 1322.10 of the Revised Code.

**1301:8-7-28      Pre-licensing education.**

(A) Provider approval.

- (1) Persons having "Approved Provider" status for continuing education in accordance with paragraph (E) of rule 1301:8-7-18 of the Administrative Code shall be deemed to be authorized to provide pre-licensing education.
- (2) The following other entities may offer pre-licensing education upon approval of the superintendent and thereby become an "Approved Provider: for pre-licensing education:
- (a) Colleges or universities;
- (b) Communities or junior colleges;

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(c) Mortgage broker, or mortgage banker, or financial institution trade association, or related organizations;

(d) State or federal agencies or commissions; or

(e) Institutions approved by the state board of career colleges and schools.

(3) Effective July 1, 2008, only persons meeting the requirements of paragraph (A)(2) of this rule can qualify or act as an "Approved Provider" for pre-licensing education.

(B) Application for course approvals to provide pre-licensing education.

(1) Any person seeking to offer pre-licensing education courses to operations managers and loan officers shall apply to the superintendent of financial institutions for approval of the courses on forms prescribed by the superintendent. The application forms must be submitted to the superintendent at least thirty days prior to the initial date of the proposed course. The application form shall include the following information:

(a) The name, address and telephone number of the person proposing to offer the course, and the names and duties of all persons affiliated in an official capacity with the course;

(b) The policy regarding attendance and the procedure for record-keeping of attendance;

(c) A summary of the course, including:

(i) The maximum number of participants per session;

(ii) The time, date, and location of the course. If the course will be offered more than once within a six month period, the time, date, and location for each course shall be provided if known. The provider may submit for approval any additional dates not already submitted with the initial application for the course on an as-needed basis. Any additional date submission should be made at least ten days prior to the proposed additional date. Such submissions may be made by mail or by electronically emailing a completed and readable scanned image file of the additional date form approved by the superintendent to the person designated to receive additional date submissions. Additional dates submitted electronically shall be deemed received by the superintendent on the day the scanned image file is sent to the proper person designated by the superintendent;

(iii) The duration of the course;

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- (iv) The form of the transcript;
  - (v) Textbooks and student materials prescribed;
  - (vi) An outline or syllabus of the entire program of courses demonstrating conformity with the requirements of division (A)(5) of section 1322.03 of the Revised code and division (A)(4) of section 1322.031 of the Revised Code;
  - (vii) Attendance or participation fees;
  - (viii) A sample of any intended advertising;
  - (ix) The number of credit hours. A credit hour consists of fifty minutes of instruction. Breaks, introductions, lunches, announcements of other non-instruction time is to be excluded in calculating the credit hours requested. Each course shall be of a length as set forth by division (A)(5) of section 1322.03 of the Revised Code and division (A)(4) of section 1322.031 of the Revised Code for that subject. Food shall not be served during instruction time.
  - (x) The title of the course offering.
- (d) The names and qualifications of teachers and instructors; and
- (e) Any other information required by the superintendent to determine whether the proposed offering will assist operations managers or loan officers in obtaining skill, knowledge, or competency in the mortgage broker business.
- (2) An approved provider must inform the division, in writing, of any change in a course's location, date or time no later than ten days prior to the course. The superintendent has the discretion to waive the ten day notice requirement where the circumstances for the change were beyond the control of the provider.
- (3) The approved provider shall give a transcript to each attendee of the course within three business days following the course date. A copy of each transcript shall be maintained by the approved provider for a period of five years. The transcript shall include all applicable information as set forth on the form approved by the division and posted on its website for that purpose, including:
- (a) The attendee's name and address, and driver's license number or other document used for identification purposes;
  - (b) Course title and certification number;

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(c) Date conducted;

(d) Address location where the course was conducted; and

(e) The attendee's hours for each program segment of study.

(C) Course approval criteria.

(1) The superintendent, when acting on an application for approval of a pre-licensing education course, shall apply the following criteria:

(a) The program of study shall consist of a minimum of twenty-four hours of live classroom instruction. Courses consisting of more than twenty per cent of videotaped information or on-line instruction are not permitted. No offering will be approved in which classroom instruction exceeds ten credit hours in any one day;

(b) For any course offered, the instructor for that course must have at least three years of experience in such work, and must submit a resume outlining the requisite experience. All course instructors shall have the requisite training and experience in real estate mortgage lending or law to make the instructor competent to present approved course material or information. The superintendent may consider any combination of, or any single matter of, an instructor's training and experience when approving an instructor;

(c) Passage of an examination by an attendee shall not be a requirement for successful completion of a pre-licensing education course; and

(d) The courses for pre-licensing education shall focus on assisting operations managers or loan officers in obtaining skill, knowledge, or competency in the areas set forth in division (A)(5) of section 1322.03 of the Revised Code and division (A)(4) of section 1322.031 of the Revised Code.

(2) Nothing herein shall limit the superintendent's authority to disapprove any application that fails to meet the standards of this rule.

(D) Equivalent/alternative education criteria.

(1) Pre-licensing education credit may be granted to operation manager applicants for certain post-secondary education course work related specifically to the business of mortgage loans that the superintendent determines meets the requirements of division (A)(5)(a) of section 1322.03 of the Revised Code.

(2) Course work will be eligible for consideration and credit only when successfully completed as a part of the applicant's major in finance, economics, or business

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administration for which a bachelor's or graduate degree was awarded by an accredited four year college or university.

(E) Pre-licensing education credit hours earned shall be good for a period of five years from the certificate date of completion.

**1301:8-7-29**      **Public actions database.**

When a judgment under section 1322.11 of the Revised Code becomes final, for purposes of division (B)(5) of section 1322.11 of the Revised Code:

(A) The clerk of court shall submit a copy of the judgment and supporting opinions to the division of financial institutions either in paper format via the United States postal service, or in an electronic format acceptable by the superintendent to an email address designated by the division of financial institutions.

(B) The clerk of court shall submit to the division of financial institutions on the first day of each January, April, July, and October, copies of all judgments and supporting opinions required to be reported under section 1322.11 of the Revised Code from the immediately preceding three months.

**Proposed Mortgage Loan Act Rules**

**1301:8-3-24**      **Points and prepayment penalties on real estate loans.**

(A) Pursuant to sections 1321.51 to 1321.60 of the Revised Code, no points or prepayment penalties are permissible on loans not secured by real estate. No prepayment penalty permitted by division (G)(1) of section 1321.57 of the Revised Code shall extend beyond the time allowed pursuant to division (C)(1) of section 1343.011 of the Revised Code. First lien mortgages made subject to sections 1321.51 to 1321.60 of the Revised Code shall not be subject to prepayment penalties if otherwise contrary to the applicable provisions of section 1343.011 of the Revised Code.

(B) The term "prepayment penalty" as used in sections 1321.51 to 1321.60 of the Revised Code and this rule shall mean a charge incurred for early payment of a loan in full prior to the loan's repayment due date.

**Proposed Homeowners Equity Protection Act Rules**

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**1301:8-10-01**      **Criteria for qualifying to provide consumer credit counseling services.**

(A) Credit counseling services meeting the following criteria are authorized by the superintendent of financial institutions to provide prepurchase counseling to consumers as may be required by section 1349.27 of the Revised Code:

(1) Credit counseling services approved by the United States department of housing and urban development to assist borrowers in understanding and obtaining "FHA" or "VA" loans, provided it does not directly or indirectly through any affiliate make or broker such loans; or

(2) Any not-for-profit credit counseling service approved by an agency of the federal government.

(B) All authorized credit counseling servicers shall register and maintain registration to conduct business in Ohio with the Ohio secretary of state and shall comply with any applicable requirement of sections 4712.01 to 4712.14 of the Revised Code (the "Credit Service Organization Act") and sections 4710.01 to 4710.04 of the Revised Code (the "Debt Adjuster Act"). Notwithstanding the foregoing, nothing herein shall affect the authority of a court in this state from enjoining a person or entity from providing these services where such remedy is appropriate under law or equity.

**1301:8-10-02**      **Electronic database.**

For purposes of division (C) of section 1349.43 of the Revised Code, the list submitted by the attorney general to the department of commerce of all enforcement actions and judgments described in divisions (B)(2) and (B)(3) of section 1349.43 of the Revised Code shall:

(A) Include copies of the enforcement actions taken by the attorney general under Chapter 1345. of the Revised Code against loan officers, mortgage brokers, and non-bank mortgage lenders, upon final disposition of each action;

(B) Include copies of all judgments and supporting opinions by courts of this state, for which appellate remedies have been exhausted or lost by expiration of the time of appeal, that find that specific acts or practices by a loan officer, mortgage broker, or non-bank mortgage lender violate section 1345.02, 1345.03, or 1345.031 of the Revised Code;

(C) Be submitted the first day of each January, April, July, and October; and

(D) Include enforcement actions and judgments from the immediately preceding three months.

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The records required herein may be submitted in an electronic image format acceptable to and as agreed by the superintendent and the attorney general to an email address designated by the division of financial institutions.