

*** DRAFT - NOT YET FILED ***

1301:8-7-01

Definitions.

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

- (A) "Advertisement" and "advertising" means any written or oral statement, illustration, or depiction, whether in English or any other language, that is designed to effect a sale or create interest in purchasing goods or services, whether it appears on or in a label, package, package insert, radio, television, cable television, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, film, slide, audio program transmitted over a telephone system, telemarketing script, on-hold script, upsell script, training materials provided to telemarketing firms, program-length commercial ("infomercial"), the internet, cellular network, or any other medium. Promotional materials and items and Web pages are included in the term advertisement and advertising.
- (B) "At the time that the request for the mortgage is refused or denied" means no later than five business days from the day that the residential mortgage loan application has been refused or denied.
- (C) "Borrower" means an individual who is assisted by a loan originator in applying for or obtaining a residential mortgage loan and includes, but is not limited to, a buyer.
- (D) "Credit union service organization" means an entity that a credit union, chartered and lawfully doing business under the laws of this state, another state, or the United States, invests in or loans to and that primarily provides products or services to credit unions or their members.
- (E) "Financial and mortgage information" means information about a borrower or potential borrower that is customary or necessary to include in a residential mortgage loan application.
- (F) "For compensation or gain" means receives or expects to receive payment of money or anything of value in connection with the activities described in paragraph (I)(1) of this rule or as a result of any residential mortgage loan terms entered into as a result of such activities.
- (G) "Leads" means financial and mortgage information about potential residential mortgage loan borrowers, including, but not limited to, information submitted by potential borrowers who fill out online questionnaires, contests, or surveys.
- (H) "Licensee," as defined in division (D) of section 1322.01 of the Revised Code, includes a temporary licensee, except that section 1322.041 of the Revised Code shall not apply to a temporary licensee.

(I)

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

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

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

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

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

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

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

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

(b) An employee of a qualified exempt entity who acts solely as a loan processor or underwriter and who does not represent to the public, through advertising or other means of communicating, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the employee can or will perform any of the activities of a loan originator.

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

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

(2) The person has been directly approved by the Federal Home Loan Bank of Cincinnati (FHLB of Cincinnati) as a participating financial institution for the

mortgage purchase program and complies with the underwriting and documentation requirements of the FHLB of Cincinnati.

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

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

(M) "Offers or negotiates terms of a residential mortgage loan" means:

(1) Presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms;

(2) Communicates directly or indirectly with a borrower, or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms; or

(3) Recommends, refers, or steers a borrower or prospective borrower to a particular lender or set of residential mortgage loan terms, in accordance with a duty to or incentive from any person other than the borrower or prospective borrower.

(N) "Originate", "originating", origination" or "act(ing) as a loan originator" means to do any of the acts set forth in paragraph (I)(1) of this rule.

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

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

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

(R) "Qualified exempt entity" means a person holding a valid letter of exemption issued pursuant to sections 1322.022 or 1322.023 of the Revised Code.

(S) "Resident of this state" does not include an individual who is purchasing a primary

residence in another state.

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

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

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

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

(1) For any resident of this state;

(2) For any property in this state;

(3) By a person who is physically located in this state but who regularly provides or offers to provide mortgage broker services only to borrowers or for property located in other states.

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

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Certification

Date

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