

*** DRAFT - NOT YET FILED ***

TO BE RESCINDED

1301:8-7-08

Loan officer license requirement; exemptions; license status.

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

(1) Hold an active loan officer license with the registrant for whom the individual is working; 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.

(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;

- (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. Personal financial and mortgage information for purposes of this rule does not include generally available public information;
 - (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 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 continuing education requirements.
 - (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.

- (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.
 - (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.
 - (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 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.
 - (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.
 - (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.

- (e) A license may be returned to active status upon the following conditions:
 - (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) When the license expires;
 - (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.

- (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.

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Certification

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