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Division of Financial Institutions
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Homeowners Equity Protection Act

Ohio Revised Code Sections 1349.25 to 1349.72

Rules Relating To Homeowners Equity Protection Act

Ohio Administrative Code Sections 1301:8-10-01 to 1301:8-10-02

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HOMEOWNERS EQUITY PROTECTION ACT

Ohio Revised Code Sections 1349.25 to 1349.72

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Section 1349.25, Definitions.

As used in section 1349.25 to 1349.37 of the Revised Code:

(A) "Actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(B) "Consumer" means a natural person to whom credit is offered or extended primarily for personal, family, or household purposes.

(C) "Consummation" means the time that a consumer becomes contractually obligated on a credit transaction.

(D) "Covered loan" means a consumer credit mortgage loan transaction, including an open end credit plan, that involves property located within this state, is secured by the consumer's principal dwelling, and meets either of the following criteria;

(1) The annual percentage rate at consummation of the transaction exceeds the amount established under section 152(a) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1602(aa), as amended, and the regulations adopted thereunder by the federal reserve board, as amended.

(2) If the total loan amount is twenty-five thousand dollars or more, the total points and fees payable by the consumer at or before loan closing exceed five per cent of the total loan amount. If the total loan amount is less than twenty-five thousand dollars, the total points and fees payable by the consumer at or before loan closing exceed eight percent of the total loan amount.

For purposes of division (D) of this section:

(a) "Points and fees" has the same meaning as in section 152(a) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C. 1602(aa), as amended, and the regulations adopted thereunder by the federal reserve board, as amended, and includes single premium credit insurance and all compensation paid directly or indirectly to a mortgage broker from any source. For transactions under an open end credit plan, "points and fees" includes fees paid for the ability to access the line of credit and fees paid in order to utilize the maximum amount of credit available.

"Points and fees" does not include fees paid to a federal or state government agency that

insures payment of some portion of a home loan, including the federal housing administration and the United States department of veteran affairs, or an amount not to exceed one percentage point in indirect mortgage broker compensation paid by any source.

(b) "Total loan amount" means the principal of the loan minus points and fees that are included in the principal amount. For transactions under an open end credit plan, "total loan amount" shall be calculated by using the total line of credit allowed under the loan at closing.

(c) "Consumer credit mortgage loan transaction" does not include a residential mortgage transaction or a reverse mortgage transaction.

Nothing in division (D) of this section shall be construed to authorize a consumer or any other party to pay compensation to a creditor for services provided by the creditor in connection with a covered loan, or to prohibit a creditor from charging or receiving such compensation.

(E) "Credit" means the right granted by a creditor to a debtor to defer payment of a debt or to incur debt and defer its payment.

(F) "Creditor" has the same meaning as in section 152(C) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1602(f), as amended, and the regulations adopted thereunder by the federal reserve board, as amended.

(G) "Person" means a natural person, partnership, association, trust, corporation, or any other legal entity.

(H) The terms "open end credit plan," "residential mortgage transaction," and "reverse mortgage transaction" have the same meanings as in section 152(a) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C. 1602, as amended, and the regulations adopted thereunder by the federal reserve board, as amended.

Effective: 1-1-2007

Section 1349.26, Disclosure by creditor.

(A) A creditor shall provide, for each covered loan, both of the following disclosures. The disclosures shall be in conspicuous type size and be in substantially the following form:

(1) "You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application."

(2) "If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan."

(B) In addition to the disclosures required under division (A) of this section, a creditor shall disclose, for each covered loan, either of the following:

(1) In the case of a credit transaction with a fixed rate of interest, the annual percentage rate, the amount of the regular monthly payment, and the amount of any balloon payment;

(2) In the case of any other credit transaction, the annual percentage rate of the loan, the amount of the regular monthly payment, a statement that the interest rate and monthly payment may increase, and the amount of the maximum monthly payment, based on the maximum interest rate allowed pursuant to 12 U.S.C.A. 3806.

(C) With respect to any mortgage that is refinanced on or after October 1, 2002, the creditor shall also disclose the total amount the consumer will borrow, as reflected by the face amount of the note. If the amount borrowed includes premiums or other charges for optional credit insurance or debt-cancellation coverage, that fact shall be stated, grouped together with the disclosure of the amount borrowed. The disclosure of the amount borrowed shall be treated as accurate if it is not more than one hundred dollars above or below the amount required to be disclosed.

(D)(1) Subject to division (D)(2) of this section, each creditor shall provide the disclosures required under this section not less than three business days prior to the consummation of the transaction. After providing those disclosures, a creditor shall not change the terms of the extension of credit if such changes make the disclosures inaccurate, unless new disclosures are provided in accordance with this section. A creditor may provide such new disclosures by telephone, if both of the following requirements are met:

(a) The change is initiated by the consumer.

(b) At the consummation of the loan transaction, the creditor provides to the consumer the new disclosures in writing and the creditor and consumer certify in writing that, not later than three days prior to the date of consummation of the transaction, the new disclosures were provided by telephone.

(2) A consumer may, after receiving the disclosures required under this section, modify

or waive the three-day waiting period between delivery of those disclosures and consummation of the loan transaction, if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the waiting period, and bears the signature of all the consumers entitled to the waiting period.

(E) Compliance with section 226.31(c)(1) and 226.32(c) of Title 12 of the Code of Federal Regulations, as amended, shall be deemed compliance with this section.

Effective: 5-24-2002

Section 1349.27, Creditor prohibitions.

A creditor shall not do any of the following:

(A) Make a covered loan that includes any of the following:

(1) Terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due. For purposes of division (A)(1) of this section, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method.

Division (A)(1) of this section does not apply to a prepayment penalty imposed in accordance with section 129(c)(2) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1639(c)(2), as amended, and the regulations adopted thereunder by the federal reserve board, as amended.

(2) Terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due;

(3) Terms under which more than two periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer;

(4) Terms under which a rebate of interest arising from a loan acceleration due to default is calculated by a method less favorable than the actuarial method.

(B) Make a covered loan that provides for an interest rate applicable after default that is higher than the interest rate that applies before default;

(C) Make a covered loan having a term of less than five years that includes terms under

which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance. This division does not apply to any covered loan with a maturity of less than one year, if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the consumer's principal dwelling.

(D) Engage in a pattern or practice of extending credit to consumers under covered loans based on the consumer's collateral without regard to the consumers' repayment ability, including the consumers' current and expected income, current obligations, and employment;

(E) Make a payment to a contractor under a home improvement contract from amounts extended as credit under a covered loan, except in either of the following ways:

(1) By an instrument that is payable to the consumer or jointly to the consumer and the contractor;

(2) At the election of the consumer, by a third party escrow agent in accordance with the terms established in a written agreement signed by the consumer, the creditor, and the contractor before the date of payment.

(F) On or after October 1, 2002, make a covered loan that includes a demand feature that permits the creditor to terminate the loan in advance of the original maturity date and to demand repayment of the entire outstanding balance, except in any of the following circumstances:

(1) There is fraud or material misrepresentation by the consumer in connection with the loan.

(2) The consumer fails to meet the repayment terms of the agreement for any outstanding balance.

(3) There is any action or inaction by the consumer that adversely affects the creditor's security for the loan or any right of the creditor in that security.

(G)(1) Within one year after having made a covered loan, refinance a covered loan to the same borrower into another covered loan, unless the refinancing is in the consumer's interest. An assignee holding or servicing a covered loan shall not, for the remainder of the one-year period following the date of origination of the covered loan, refinance any covered loan to the same consumer into another covered loan, unless the refinancing is in the consumer's interest.

A creditor or assignee shall not engage in acts or practices to evade division (G)(1) of this

section, including a pattern or practice of arranging for the refinancing of its own loans by affiliated or unaffiliated creditors, modifying a loan agreement, whether or not the existing loan is satisfied and replaced by the new loan, and charging a fee.

(2) Division (G)(1) of this section shall apply on and after October 1, 2002.

(H) Make a covered loan without first obtaining a copy of the mortgage loan origination disclosure statement that was delivered to the buyer in accordance with division (A)(1) of section 1322.062 of the Revised Code.

(I) Finance, directly or indirectly, into a covered loan or finance to the same borrower within thirty days of a covered loan any credit life or credit disability insurance premiums sold in connection with the covered loan, provided that any credit life or credit disability insurance premiums calculated and paid on a monthly or other periodic basis shall not be considered financed by the person originating the loan. For purposes of this division, credit life or credit disability insurance does not include a contract issued by a government agency or private mortgage insurance company to insure the lender against loss caused by a mortgagor's default.

(J) Replace or consolidate a zero interest rate or other low-rate loan made by a governmental or nonprofit lender with a covered loan within the first ten years of the low-rate loan unless the current holder of the loan consents in writing to the refinancing. For purposes of this division, a "low-rate loan" means a loan that carries a current interest rate two percentage points or more below the current yield on United States treasury securities with a comparable maturity. If the loan's current interest rate is either a discounted introductory rate or a rate that automatically steps up over time, the fully indexed rate or the fully stepped-up rate, as applicable, shall be used, in lieu of the current rate, to determine whether a loan is a low-rate loan.

(K) Make a covered loan if, at the time the loan was consummated, the consumer's total monthly debt, including amounts owed under the loan, exceed fifty per cent of the consumer's monthly gross income, as verified by the credit application, the consumer's financial statement, a credit report, financial information provided to the person originating the loan by or on behalf of the consumer, or any other reasonable means, unless the consumer submits both of the following:

(1) Verification that the consumer received prepurchase counseling from a counseling service that meets the criteria established by the superintendent of financial institutions under section 1349.271 of the Revised Code;

(2) A disclosure, signed by the consumer, that acknowledges the risk of entering into such a loan.

Effective: 1-1-2007

Section 1349.271, Superintendent to adopt rules for prepurchase counseling.

(A) The superintendent of financial institutions shall, in accordance with Chapter 119. of the Revised Code, adopt rules that establish criteria for purposes of qualifying counseling services that provide prepurchase counseling to consumers.

(B) Any not-for-profit credit counseling service approved by an agency of the federal government shall be deemed to meet the criteria established by the superintendent under this section.

Effective: 1-1-2007

Section 1349.29, Consumer right to rescind transaction.

If a covered loan transaction includes any term prohibited by section 1349.27 of the Revised Code, the consumer shall have the right to rescind the transaction in accordance with section 129(j) of the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1639(j), as amended, and the regulations adopted thereunder by the federal reserve board, as amended.

Effective: 5-24-2002

Section 1349.30, Liability for creditor's error.

(A) A person has no liability under section 1349.31 of the Revised Code, and shall not be subject to any sanction by the superintendent of financial institutions, for any failure to comply with section 1349.26 or 1349.27 of the Revised Code, if within sixty days after discovering the error, whether pursuant to the person's own procedures or an examination or investigation by the superintendent under division (A) or (B) of section 1349.34 of the Revised Code, and prior to the initiation of any action by the superintendent under divisions (C) to (F) of section 1349.34 of the Revised Code or the receipt of

written notice of the error from the consumer, the person notifies the consumer or other person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the consumer will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

(B) A creditor or assignee shall not be held liable in any action brought under section 1349.29 of the Revised Code, if the creditor or assignee shows by a preponderance of evidence that the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to void any such error. For purposes of this division, "bona fide error" includes, but is not limited to, clerical, calculation, computer malfunction and programming, and printing errors. "Bona fide error" does not include an error of legal judgment with respect to a person's obligations under sections 1349.25 to 1349.36 of the Revised Code.

Effective: 5-24-2002

Section 1349.31, Superintendent may prosecute for criminal violations.

(A)(1) No creditor shall willfully and knowingly fail to comply with section 1349.26 and 1349.27 of the Revised Code. For purposes of division (A)(1) of this section, "willfully and knowingly" has the same meaning as in section 112 of the "Truth in Lending Act," 82 Stat. 146 (1968), 15 U.S.C.A. 1611, as amended.

(2) Whoever violates division (A)(1) of this section is guilty of a felony of the fifth degree.

(B) The superintendent of financial institutions may directly bring an action to enjoin a violation of this section. The attorney general may directly bring an action against a mortgage broker, loan officer, or nonbank mortgage lender to enjoin a violation of this section with the same rights, privileges, and powers as those described in section 1345.06 of the Revised Code. The prosecuting attorney of the county in which the action may be brought may bring an action against a mortgage broker, loan officer, or nonbank mortgage lender to enjoin a violation of this section only if the prosecuting attorney first presents any evidence of the violation to the attorney general and, within a reasonable period of time, the attorney general has not agreed to bring the action.

For purposes of this division, "loan officer," "mortgage broker," and "nonbank mortgage lender" have the same meanings as in section 1345.01 of the Revised Code.

(C)(1) The superintendent of financial institutions may initiate criminal proceedings under this section by presenting any evidence of criminal violations to the prosecuting attorney of the county in which the offense may be prosecuted. If the prosecuting attorney does not prosecute the violations, or at the request of the prosecuting attorney, the superintendent shall present any evidence of criminal violations to the attorney general, who may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries. These powers of the attorney general shall be in addition to any other applicable powers of the attorney general.

(2) The prosecuting attorney of the county in which an alleged offense may be prosecuted may initiate criminal proceedings under this section.

(3) In order to initiate criminal proceedings under this section, the attorney general shall first present any evidence of criminal violations to the prosecuting attorney of the county in which the alleged offense may be prosecuted. If, within a reasonable period of time, the prosecuting attorney has not agreed to prosecute the violations, the attorney general may proceed in the prosecution with all the rights, privileges, and powers described in division (C)(1) of this section.

Effective: 1-1-2007

Section 1349.32, Uniform administration and enforcement of state and federal laws.

The purpose of sections 1349.25 to 1349.36 of the Revised Code is to bring Ohio law into conformance with the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1601 note, as amended, and the regulations and interpretations adopted thereunder by the federal reserve board, in order to facilitate the uniform administration and enforcement of state and federal laws on the regulation of certain high cost mortgages.

In furtherance of that purpose, the regulations and interpretations adopted by the federal reserve board to implement the "Home Ownership and Equity Protection Act of 1994," which regulations and interpretations are effective

as of the effective date of this section, are hereby deemed applicable to sections 1349.25 to 1349.36 of the Revised Code. Such regulations and interpretations include the amendment of section 226.32 and 226.34 of Title 12 of the Code of Federal Regulations, which amendment was approved by the federal reserve board on December 12, 2001, and takes effect October 1, 2002.

Effective: 5-24-2002

Section 1349.33, Continuity with federal regulations.

(A) Notwithstanding any provision of sections 1349.25 to 1349.36 of the Revised Code, or any rule adopted thereunder, if the "home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1601 note, as amended, or any regulation adopted thereunder by the federal reserve board, as amended, is amended or otherwise modified after the effective date of this section, the superintendent of financial institutions may by rule adopt similar provisions. If an amendment or other modification to the "Home Ownership and Equity Protection Act of 1994" requires the adoption of implementing regulations by the federal reserve board, the superintendent shall not adopt any rule under the authority of this section until those regulations are adopted.

(B) The superintendent shall adopt the rules authorized by division (A) of this section in accordance with section 111.15 of the Revised code, Chapter 119., of the Revised Code does not apply to rules adopted under the authority of this section.

(C) A rule adopted by the superintendent under the authority of this section is effective on the later of the following dates:

(1) The date the superintendent issues the rule;

(2) The date the regulation, rule, interpretation, procedure, or guideline the superintendent's rule is based on becomes effective.

(D) The superintendent may, upon thirty days' written notice, revoke any rule adopted under the authority of this section. A rule adopted under the authority of this section, and not revoked by the superintendent, lapses and has no further force and effect thirty months after its effective date.

Effective: 5-24-2002

Section 1349.34, Superintendent may conduct examination.

(A) As often as the superintendent of financial institutions considers it necessary, the superintendent may examine a person's records regarding covered loans. The superintendent may recover from the person any costs incurred in connection with and reasonably related to the examination.

(B) The superintendent may investigate alleged failures to comply with sections 1349.25 to 1349.36 of the Revised Code, or any rule adopted thereunder, or complaints concerning any such failure to comply. In conducting any investigation under this section, the superintendent may compel, by subpoena, witnesses to testify in relation to any matter over which the superintendent has jurisdiction and may require the production of any book, record, or other document pertaining to that matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

(C) Whenever it appears to the superintendent that a person has engaged in, is engaging in, or is about to engage in, any activity constituting a failure to comply with section 1349.26 or 1349.27 of the Revised Code, the superintendent may make application to the court of common pleas of any county in this state for an order enjoining any such activity. Upon a showing by the superintendent that a person has engaged in, is engaging in, or is about to engage in, any activity constituting a failure to comply with section 1349.26 or 1349.27 of the Revised Code, the court shall grant an injunction, restraining order, or other appropriate relief.

(D) Whenever it appears to the superintendent that a person has engaged in, is engaging in, or is about to engage in, any activity that may constitute a failure to comply with section 1349.26 or 1349.27 of the Revised Code, the superintendent, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, may issue a cease and desist order. Such an order shall be

enforceable in any court of common pleas in this state.

(E) If a person that fails to comply with section 1349.26 or 1349.27 of the Revised Code is licensed, registered, or chartered by, or otherwise operates under the authority of, the superintendent, the superintendent may, in accordance with Chapter 119. of the Revised Code, suspend, revoke, or deny the renewal of such license, registration, charter, or other authority.

(F) If a person fails to comply with section 1349.26 or 1349.27 of the Revised Code, the superintendent may, in accordance with Chapter 119. of the Revised Code, impose a fine of not more than two thousand five hundred dollars per compliance failure. If the person fails to comply two or more times, the superintendent may, in accordance with Chapter 119. of the Revised Code, impose a fine of not more than five thousand dollars per compliance failure. If the person injured by the failure to comply is sixty-five years of age or older, the superintendent may double the amount of the fine.

An order to pay a fine pursuant to this division shall be enforceable in any court of common pleas in this state. All fines collected under this division shall be paid to the superintendent and shall be deposited by the superintendent into the state treasury to the credit of the consumer finance fund created under section 1321.21 of the Revised code.

In determining the amount of a fine to be imposed under this division, the superintendent shall consider all of the following:

- (1) The seriousness of the conduct;
- (2) The person's good faith efforts to prevent the conduct;
- (3) The person's history regarding violations and compliance with the superintendent's orders;
- (4) The person's financial resources;
- (5) Any other matter the superintendent considers appropriate in enforcing sections 1349.26 and 1349.27 of the Revised Code.

The superintendent shall not impose a fine under this division if the superintendent has imposed or will impose a fine under another provision of the Revised Code for the same conduct.

(G)(1) The superintendent may take any of the actions set forth in this section with respect to any person other than a federally chartered financial institution or its operating subsidiaries. Whenever it appears to the superintendent that a federally chartered financial institution or its

operating subsidiary has engaged in, is engaging in, or is about to engage in, any activity that may constitute a failure to comply with section 1349.26 or 1349.27 of the Revised Code, the superintendent may present any evidence of such activity to the institution's appropriate federal regulatory authority, along with any recommendations regarding the imposition of specific sanctions.

(2) Any action taken by the superintendent under this section shall be commenced within three years after the alleged compliance failure.

(H) The remedies available to the superintendent under this section are cumulative and concurrent, and the exercise of one remedy by the superintendent does not preclude or require the exercise of any other remedy.

(I) The remedies available to the superintendent under this section or to the appropriate federal regulatory authority, the right of rescission described in section 1349.29 of the Revised Code, and the criminal penalty provided in section 1349.31 of the Revised code shall constitute the sole and exclusive remedies for any failure to comply with section 1349.26 or 1349.27 of the Revised Code.

Effective: 5-24-2002

Section 1349.35, Superintendent's annual report.

The superintendent of financial institutions shall include, as part of the annual report required by section 1181.09 of the Revised Code, the number of complaints received, the number of enforcement actions taken, and any other relevant data regarding covered loans.

Effective: 5-24-2002

Section 1349.36, Superintendent may adopt rules.

The superintendent of financial institutions may, in accordance with Chapter 119. of the Revised Code, adopt reasonable rules to administer and enforce sections 1349.25 to 1349.35 of the Revised Code and to carry out the purpose of those sections as stated in section 1349.32 of the Revised Code.

Effective: 5-24-2002

Section 1349.37, Creation of the office of consumer affairs.

There is hereby created in the division of financial institutions the office of consumer

affairs. The responsibilities of the office shall, at a minimum, include all of the following:

(A) Providing education to residents of this state regarding borrowing and related financial topics;

(B) Providing referrals to credit counseling services;

(C) Receiving complaints regarding alleged failures to comply with section 1349.26 or 1349.27 of the Revised Code;

(D) Contacting the persons that are the subject of such complaints, on behalf of the consumers;

(E) Referring matters to the superintendent of financial institutions for action under section 1349.34 of the Revised Code.

Effective: 5-24-2002

Section 1349.41, Lenders' business conduct; consumer may recover damages.

(A) As used in this section:

(1) "Consumer" means an individual to whom credit is offered or extended primarily for personal, family, or household purposes.

(2) "Lender" means a nonbank mortgage lender as defined in section 1345.01 of the Revised Code. "Lender" does not include a person that purchases or is assigned a loan or that functions solely as the servicer of a loan.

(3) "Mortgage" has the same meaning as in section 1322.01 of the Revised Code.

(B) A lender shall not engage in a transaction, practice, or course of business that is not in good faith or fair dealing, or that operates a fraud upon any person, in connection with the attempted or actual making, purchase, or sale of any mortgage loan.

(C) If a lender fails to comply with division (B) of this section, the affected consumer may recover damages of not less than all compensation paid directly or indirectly to the lender from any source, plus reasonable attorney's fees and court costs.

(D) The duty created by this section shall not be waived or modified.

Effective: 1-1-2007

Section 1349.43, Electronic database to provide enforcement actions by superintendent, attorney general and judgments by Ohio courts.

(A) As used in this section, "loan officer," "mortgage broker," and "nonbank mortgage

lender" have the same meanings as in section 1345.01 of the Revised Code.

(B) The department of commerce shall establish and maintain an electronic database accessible through the internet that contains information on all of the following:

(1) The enforcement actions taken by the superintendent of financial institutions for each violation of or failure to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code, upon final disposition of the action;

(2) The enforcement actions taken by the attorney general under Chapter 1345. of the Revised Code against loan officers, mortgage brokers, and nonbank mortgage lenders, upon final disposition of each action:

(3) All judgments by courts of this state, concerning which appellate remedies have been exhausted or lost by the expiration of the time for appeal, finding either of the following:

(a) A violation of any provision of section 1322.01 to 1322.12 of the Revised Code;

(b) That specific acts or practices by a loan officer, mortgage broker, or nonbank mortgage lender violate section 1345.02, 1345.03 or 1345.031 of the Revised Code

(C) The attorney general shall submit to the department, on the first day of each January, April, July, and October, a list of all enforcement actions and judgments described in divisions (B)(2) and (3)(b) of this section.

(D) The department may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to implement this section.

(E) The electronic database maintained by the department in accordance with this section shall not include information that, pursuant to section 1322.061 of the Revised Code, is confidential.

Effective:1-1-2007

Section 1349.44, Superintendent to report to governor and general assembly.

(A) The superintendent of financial institutions shall report semiannually to the governor and the general assembly on the operations of the division of financial institutions with respect to the following:

(1) Enforcement actions instituted by the superintendent for a violation of or failure to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code, and their final dispositions;

(2) Suspensions, revocations, or refusals to issue or renew certificates of registration and licenses under sections 132.201 to 1322.12 of the Revised Code;

(3) Outreach efforts of the office of consumer affairs to provide education regarding predatory lending, borrowing, and related financial topics.

(B) The information required under division (A)(1) and (2) of this section does not include information that, pursuant to section 1322.061 of the Revised Code, is confidential.

Effective: 1-1-2007

Section 1349.71, Creation of consumer finance education board.

(A) There is hereby created a consumer finance education board, consisting of twelve members, appointed jointly by the governor, the speaker of the house of representatives, and the president of the senate with the advice and consent of the house and senate. One member shall be appointed from, or as a representative of, each of the following:

- (1) The Ohio attorney general's office;
- (2) The department of commerce;
- (3) The Ohio housing finance agency;
- (4) Ohio minority advocacy groups;
- (5) The Ohio bankers league;
- (6) The Ohio mortgage bankers association;
- (7) The Ohio credit union league;
- (8) Ohio community bankers association;
- (9) The Ohio real estate industry;
- (10) The Ohio mortgage brokers association;
- (11) The financial services industry;
- (12) Consumer advocacy organizations.

(B) Geographically diverse representation of the state shall be considered in making appointments. Of the initial appointments to the board, four shall be for a term ending December 31, 2008, four shall be for a term ending December 31, 2009, and four shall be for a term ending December 31, 2010. Thereafter, terms of office are for three years, commencing on the first day of January and ending on the thirty-first day of December. Each member shall hold office from the date of the member's appointment until the end of the term for which the member is appointed. Prior to assuming the duties of office, each member shall subscribe to, and file with the secretary of state, the constitutional oath of office. Vacancies that occur on the board shall be filled in the manner prescribed for regular appointments to the board. A member appointed to fill a vacancy occurring prior to the expiration of the term for

which the member's predecessor was appointed shall hold office for the remainder of that predecessor's term. A member shall continue in office subsequent to the expiration date of the member's terms until the member's successor takes office or until sixty days have elapsed, whichever occurs first. No person shall serve as a member of the board for more than two consecutive terms. The governor may remove a member pursuant to section 3.04 of the Revised Code.

(C) Annually, upon the qualification of the members appointed in that year, the board shall organize by selecting from its members a chairperson. The board shall meet at least once each calendar quarter to conduct its business with the place of future meetings to be decided by a vote of its members. Each member shall be provided with written notice of the time and place of each board meeting at least ten days prior to the scheduled date of the meeting. A majority of the members of the board constitutes a quorum to transact and vote on all business coming before the board.

(D)(1) The governor shall call the first meeting of the consumer finance education board. At that meeting, and annually thereafter, the board shall elect a chairperson for a one-year term and may elect members to other positions on the board as the board considers necessary or appropriate.

(2) Each member of the board shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code for each day employed in the discharge of the member's official duties, and the member's actual and necessary expenses incurred in the discharge of those duties.

(E) The board may obtain services from any state agency including but not limited to the department of commerce or its successor agency.

(F) The board shall assemble an advisory committee of representatives from the following organizations or groups for the purpose of receiving recommendations on policy, rules, and activities of the board:

- (1) The department of aging;
- (2) The department of rehabilitation and correction;
- (3) The department of development;
- (4) The department of job and family services;
- (5) The Ohio treasurer of state's office;
- (6) The county treasurers association of Ohio;

- (7) Ohio college professors;
 - (8) Ohio university professors;
 - (9) The Ohio board of regents;
 - (10) The Ohio community development corporations association;
 - (11) The Ohio council for economic education;
 - (12) The Ohio state university extension service.
- Effective: 1-1-2007

Section 1349.72, Duties of consumer finance education board.

(A) In addition to any other duties imposed on the consumer finance education board by section 1349.71 of the Revised Code, the board shall:

(1) Analyze and investigate, on its own initiative, the policies and practices of state agencies, nonprofit entities, and businesses, inasmuch as such policies and practices address financial literacy, access by state residents to financial information, education, and resources, prevention of foreclosures and bankruptcies, and prepurchase and postpurchase counseling and education for homebuyers;

(2) Provide an annual report and consultation and recommendations to the governor, the general assembly, state agencies, nonprofit entities, and businesses based on the board's findings;

(3) Coordinate and provide resources and assistance to state agencies, nonprofit entities, and businesses in the furtherance of those entities' efforts to improve financial literacy, access by state residents to financial information, education, and resources, prevention of foreclosures and bankruptcies, and prepurchase and postpurchase counseling and education for homebuyers

(4) Provide financial assistance to Ohioans through grants funded through the consumer finance fund created under section 1321.21 of the Revised Code and utilize these same funds to provide grants to design, develop, and implement any other programs described in this section.

(5) Receive grants from the consumer finance fund for the implementation of this section.

(B) The board may assign and delegate the execution of its duties to smaller groups of its owner members, which shall include committees

specifically chartered to address all of the following issues:

(1) The needs of persons, ages eighteen to twenty-five, in the context of the objectives enumerated in division (A) of this section;

(2) The needs of persons, classified as needy, based on a household adjusted gross income equal to or less than two hundred per cent of the poverty level, as determined by the Ohio office of budget and management, or the earned income amount described in section thirty-two of the Internal Revenue Code of 1986, taking into account the size of the household, in the context of the objectives enumerated in division (A) of this section;

(3) The needs of persons, previously convicted of one or more felonies, in the context of the objectives enumerated in division (A) of this section;

(4) The needs of persons, characterized as vulnerable by reason of advanced age, disability, minority, or other demographic consideration, in the context of the objectives enumerated in division (A) of this section;

(5) Any other group or issue identified by the board as worth of particular attention.

(C) The board shall create a pilot financial literacy and counseling program funded through the consumer finance fund, to be operated in the five counties with the highest mortgage foreclosure rates as of the effective date of this section, and completion of which shall be recommended by mortgage brokers and loan officers for any consumer seeking a mortgage loan with origination fees greater than five per cent. Before a mortgage broker permits a consumer to commit to such a loan, the broker shall notify the consumer that the loan may have attributes that are predatory. No person who offers education, advice or counseling through the financial literacy and counseling program shall be held liable for any damages incurred from actions taken based on the education, advice or counseling given.

Effective: 1-1-2007

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RULES RELATING TO THE HOMEOWNERS EQUITY PROTECTION ACT

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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 section 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.

Effective: 6-1-2007

Statutory Authority: 1349.36
Rule Amplifies: 1349.27, 1349.271

officer, mortgage broker, or non-bank mortgage lender violate section 1345.02, 1345.03, or 1345.0431 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.

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.

Effective: 6-1-2007

Statutory Authority: 1349.36
Rule Amplifies: 1349.43

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 division (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