

\*\*\* DRAFT - NOT YET FILED \*\*\*

1301:8-3-03

**Definitions.**

- (A) "Assets," as used in division (B)(2) of section 1321.53 of the Revised Code, shall mean properties of value that are owned by the applicant or registrant. Therefore, assets include cash on hand and in depository institutions, readily marketable securities, accounts receivable (less allowances for uncollectible accounts) and real estate (less liens and depreciation). However, the term "assets" as used in this section shall not include: office premises, leasehold improvements, office furniture, fixtures, and equipment, or intangible assets.
- (B) "Net worth," as used in division (B)(1) of section 1321.53 of the Revised Code shall mean the amount by which the business assets exceed the business liabilities.
- (C) "Direct mail," as used in this chapter, shall mean a loan arranged via an application through the mail or internet where the loan proceeds are delivered through the mail or electronic transmission to the benefit of a borrower. A loan is not made by "direct mail" if it is facilitated by face to face, personal contact in this state between the lender, lender's employee or agent, or lender's attorney and the borrower or borrower's agent. For purposes of this rule, a bona fide third party title agency, notary, insured depository, or attorney which is suggested as part of a list of three or more recommended but not required closing providers, shall not be considered an agent of the lender. Nothing in this rule shall prohibit a registrant from creating a list of disapproved vendors, nor shall persons selected by the borrower only to witness the borrower's signature in compliance with a list be considered an agent of the lender.
- (D) "Collecting" as used in division (A)(1)(b) of section 1321.52 of the Revised Code and "collected" as used in paragraph (E) of rule 1301:8-3-12 of the Administrative Code shall mean the servicing of a loan or receipt of payments from a borrower for a loan made pursuant to sections 1321.51 to 1321.60 of the Revised Code.
- (E) The term "condition of the loan" as used in division (H)(2) of section 1321.57 of the Revised Code shall mean that approval or denial of a borrower's loan application shall not be based on the borrower's acceptance of any other transactions made in conjunction with the loan. This restriction shall not apply to insurance placed by registrants to insure loan collateral as provided for by division (F) of section 1321.57 of the Revised Code.
- (F) The phrase "refuse to provide information" as used in division (C) of section 1321.59 of the Revised Code shall mean the failure of a registrant to provide a borrower with information regarding the amount required to pay the borrower's loan in full within five business days after the receipt of a written request from a borrower or

the borrower's designee.

- (G) The term "prepayment penalty" as used in sections 1321.51 to 1321.60 of the Revised Code and this chapter shall mean a charge incurred for early payment of a loan in full prior to the loan's repayment due date.
- (H) "Affiliation" or "affiliated with" as used in sections 1321.51 to 1321.60 of the Revised Code and this chapter shall mean directly or indirectly through one or more intermediaries controlled by or under common control with another person or enterprise. "Control" shall mean the authority to direct or cause the direction of the management and policies through ownership, by contract, or otherwise.
- (I) "Final entry on a loan," as used in this chapter, means, as to that lender, the latter of the date the loan is:
- (1) Paid in full,
  - (2) Deemed uncollectible,
  - (3) Assigned to another registrant or exempt entity and all records are transferred to the new lender, or
  - (4) Discharged or otherwise settled by an order terminating litigation governing the loan transaction.
- (J) The phrase "settlement or closing costs" as used in division (H)(1) of section 1321.57 of the Revised Code shall mean fees for settlement or closing services provided by others that are passed on to the borrower without a premium and are not included as a finance charge under the terms of the Truth in Lending Act, 15 U.S.C. 1601 et seq. as of January 1, 2008. Fees paid to any affiliate for underwriting or processing as a settlement or closing costs, as well as for use of any office for closing, shall be deemed made for the purpose of evasion of section 1321.57 of the Revised Code. Fees paid to any broker for settlement or closing costs will be counted as compensation under division (D) of section 1321.59 of the Revised Code. Nothing herein limits the division from determining other settlement or closing costs are assessed for purpose of evasion of section 1321.57 of the Revised Code, or permits a settlement or closing cost otherwise prohibited or limited by law or rule.

Five Year Review (FYR) Dates:

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Certification

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Date

Promulgated Under:	119.03
Statutory Authority:	1321.54(A)
Rule Amplifies:	1321.51 to 1321.60
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