

1301:8-7-02

Registration, letters of exemption for qualified exempt entities, office requirements and restrictions.

(A) A registrant shall register every office where any of the following activities occur or conditions exist:

- (1) Leads are solicited or received, directly or indirectly, from residents of this state, for property in this state, or from a location physically in this state;
- (2) Records pertaining to business conducted pursuant to Chapter 1322. of the Revised Code are maintained in paper form;
- (3) ~~A~~The registrant's licensees originate residential mortgage loans for residents of this state, property in this state, or from a location physically in this state regardless of the location of the borrower or property;
- (4) The registrant transacts business as a mortgage servicer.

(B) A qualified exempt entity shall seek and obtain an approved letter of exemption for every office where any of the following activities occur or conditions exist:

- (1) Records pertaining to business conducted pursuant to Chapter 1322. of the Revised Code are maintained in paper form;
- (2) ~~A~~The qualified exempt entity's licensees originate residential mortgage loans for residents of this state or property in this state;
- (3) The qualified exempt entity transacts business as a mortgage servicer.

(C) A registrant or qualified exempt entity may share office space with another person if:

- (1) The physical arrangement does not confuse or mislead borrowers;
- (2) Access to borrower files, financial and mortgage information of borrowers or potential borrowers, and all records required to be maintained by Chapter 1322. of the Revised Code, whether in electronic or paper form, is restricted to only the registrant's or qualified exempt entity's employees or licensees, and is maintained in compliance with applicable state and federal privacy laws.
- (3) Notwithstanding paragraph (C)(2) of this rule, a registrant or qualified exempt entity may allow an independent contractor licensed pursuant to Chapter 1322. of the Revised Code or employees of a loan processing or underwriting company holding a valid letter of exemption issued pursuant to rule 1301:8-7-32 to access borrower files, financial and mortgage information of borrowers or potential borrowers, and all records required to be maintained by Chapter

1322. of the Revised Code, whether in electronic or paper form, for the purpose of conducting the clerical or support duties of loan processing or underwriting for the same registrant or qualified exempt entity.

(D) The following restrictions and requirements apply to each additional office location maintained by the registrant, also referred to herein as branch offices:

- (1) A branch office shall not be a separate business entity;
- (2) A branch office shall not pay its own operating expenses for the transaction of business as a mortgage broker in this state. Operating expenses include compensation of branch office employees, and payments for equipment, furniture, office rent, utilities, advertising 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 shall be properly accounted for in the financial records and state and federal tax returns of the registrant. 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 remains the responsibility of the registrant;
- (3) A branch office shall not indemnify, hold harmless, or defend a registrant against damages, losses, injury, or liability arising out of acts or omissions of the branch or employees or licensees working from the branch.
- (4) A branch office shall not maintain a bank account for the payment of expenses that is separate from the bank accounts of the registrant. All operating expenses shall 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 its own lines of credit, warehouse agreements, or other investor agreements that are independent from those of the registrant;
- (6) All practices, policies, and procedures, including those relating to employment and operations, shall be established by the registrant and shall be applied consistently to the main office and all branch offices.

(E) Any arrangement where a registrant allows another person to transact business as a mortgage broker in this state under the registrant's certificate of registration at a location that does not comply with paragraph (D) of this rule, sometimes referred to as "net branching," is not permissible.

- (F) A residential mortgage loan is primarily for personal, family, or household use if more than one half of the total loan amount is used for consumer purposes and not for business purposes. In assessing the purpose (or purposes, if the loan is a hybrid used for both consumer and business purposes), the superintendent may consider the totality of the circumstances surrounding the loan and not merely the purpose of cash-out proceeds. If more than one half of the total loan amount is for business purposes, then the requirements of Chapter 1322. of the Revised Code do not apply.
- (G) Notwithstanding paragraph (F) of this rule, a residential mortgage loan made to a borrower for purposes of investing in a dwelling to either lease, rent, or resell for profit is considered a business purpose loan and is not subject to the requirements of Chapter 1322. of the Revised Code unless the dwelling, or at least one unit of the dwelling in the case of a two to four family housing unit, will be occupied by the borrower or any immediate family member of the borrower. For the purposes of this paragraph, "immediate family" has the same meaning as set forth in division (R) of section 1322.01 of the Revised Code.
- (H) Nothing in division (AA)(2)(b) of section 1322.01 of the Revised Code prevents a person licensed under Chapter 4735. of the Revised Code or similar law of another state from receiving compensation for real estate brokerage activities performed for a mortgage lender or agent thereof who is also the owner of the property provided that the person does not act as a mortgage loan originator in the transaction.
- (I) A registrant or qualified exempt entity shall not hold a certificate of registration issued pursuant to Chapter 4712. of the Revised Code.

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Standards for applications, certificates of registration, letters of exemption, and licenses.

- (A) Submitting an application for a certificate of registration, letter of exemption or license via the NMLS does not authorize the applicant to begin acting as a registrant, qualified exempt entity, or licensee.
- (B) Each question and answer on the NMLS, including any exhibit or attachment, is material to the application process. Submitting false or fraudulent information or omitting information is grounds to refuse to issue the certificate of registration, letter of exemption, or license and may subject the applicant and individuals who signed and attested to the application to administrative, civil, or criminal actions.
- (C) Engaging in mortgage broker, mortgage servicer, or loan origination activity on or after the first day of January by a person who fails to submit a renewal application via the NMLS by the thirty-first day of ~~January~~ the preceding December constitutes activity without a certificate of registration or license in violation of Chapter 1322. of the Revised Code, and the person engaged in the violation may be subject to administrative, civil, or criminal actions. In accordance with division (D)(2) of section 1322.10 of the Revised Code, this paragraph does not apply if the applicant, not later than forty-five days after the renewal deadline, submits the renewal fee or additional fee and a one-hundred-fifty-dollar penalty to the superintendent.
- (D) Registrants, qualified exempt entities, licensees, and applicants are responsible for ensuring that all information maintained on the NMLS is current and accurate. If information on the NMLS becomes out-of-date or inaccurate for any reason, the registrant, qualified exempt entity, licensee, or applicant shall correct the information within ten business days of the change unless a different time frame is specified in Chapter 1322. of the Revised Code or rule 1301:8-7-19 of the Administrative Code.
- (E) Having a sponsorship submitted via the NMLS is not sufficient to activate a license. To be authorized to originate residential mortgage loans for a registrant or qualified exempt entity, a current sponsorship request must be approved by the superintendent and the mortgage loan originator must receive an active license from the superintendent.
- (F) An individual or registered loan originator may obtain or maintain a license in escrow without having a sponsorship submitted via the NMLS on his or her behalf by a registrant or qualified exempt entity.
- (G) An applicant may request the withdrawal of an application for a certificate of registration, letter of exemption, or license prior to a determination on the application being made by the superintendent by submitting a request via the NMLS. The application may only be withdrawn with the permission of the superintendent. An

application withdrawn at the request of the applicant may only be re-activated within seven calendar days of the withdrawal for good cause shown and at the discretion of the superintendent. An applicant may reapply following a withdrawn application.

(H) An escrowed or suspended license is subject to all of the following:

- (1) Placing a license in escrow or having a license suspended does not extend or toll the time for completion of the licensee's continuing education requirements under section 1322.28 of the Revised Code;
- (2) An escrowed or suspended license may be renewed pursuant to division (B) of section 1322.21 of the Revised Code;
- (3) An escrowed or suspended license is subject to suspension, refusal, revocation, or any other administrative, civil, or criminal actions for conduct occurring before, during, or after the license was placed in escrow or suspended status.

(I) A suspended certificate of registration or letter of exemption is subject to all of the following:

- (1) A suspended certificate of registration or letter of exemption may be renewed pursuant to division (C) of section 1322.10 or division (D) of section 1322.05 of the Revised Code, respectively;
- (2) A suspended certificate of registration or letter of exemption is subject to refusal, revocation, or any other administrative, civil, or criminal actions for conduct occurring before, during, or after the suspension.

(J) A suspended certificate of registration, letter of exemption, or license may be returned to active status if it meets all of the following:

- (1) The superintendent believes that all conditions which led to the suspension have been remedied;
- (2) The registrant, qualified exempt entity, or licensee is otherwise eligible to hold an active certificate of registration, letter of exemption, or license.

(K) A certificate of registration, letter of exemption, or license may be surrendered in accordance with the following:

- (1) A person may voluntarily surrender a certificate of registration, letter of exemption, or license unless the person is being investigated by the superintendent or another financial institution regulatory authority as defined in division (C) of section 1322.36 of the Revised Code, or a notice of opportunity

for a hearing has been issued by the superintendent in accordance with Chapter 119. of the Revised Code. A person may surrender by submitting a ~~written statement to the superintendent or by submitting a request~~ via the NMLS.

The certificate of registration, letter of exemption, or license may only be surrendered with the permission of the superintendent;

- (2) A surrendered certificate of registration, letter of exemption, or license is subject to administrative, civil, or criminal actions for conduct occurring before, during, or after the surrender and does not impair or affect the obligation of a pre-existing lawful contract between the registrant, qualified exempt entity, or licensee and any person, including a borrower.

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Recordkeeping.

- (A) In accordance with division (B) of section 1322.34 of the Revised Code and division (C) (3) of section 1322.05 of the Revised Code, the four-year retention period commences on the date the residential mortgage loan is closed or, if the residential mortgage loan is not closed, the date of the withdrawal or denial of the residential mortgage loan application. If the residential mortgage loan is serviced by a qualified exempt entity, the four-year retention period commences on the date the residential mortgage loan is paid in full or the date the registrant ceases to service the residential mortgage loan. The retention period for advertisements commences from the date the advertisements are published, broadcast, or disseminated.
- (B) A registrant or qualified exempt entity shall notify the superintendent via the NMLS of a change of location of its records pertaining to business conducted pursuant to Chapter 1322. of the Revised Code no later than five business days after the change.
- (C) As used in division (E) of section 1322.34 of the Revised Code, "estimated costs of the examination" includes, in addition to the proportionate costs of the salaries of division of financial institutions employees who conduct the examination, the division's travel, lodging, and per diem expenses incurred in travel to examine the books and records. At the request of the superintendent, payment of the estimated costs of the examination, 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 or qualified exempt entity.
- (D) All records shall be kept current and shall be available at all times during normal business hours for review by the superintendent. Records should be legible and maintained in a type size that is clearly readable without magnification and in conformity with state or federal law. Except when 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 or qualified exempt entity, at its expense, shall be responsible for providing the superintendent with a full and accurate translation. For purposes of this rule, "current" means within thirty days from the date of the occurrence of the event required to be recorded.
- (E) A registrant or qualified exempt entity shall segregate the records pertaining to business conducted pursuant to Chapter 1322. of the Revised Code from all other business records.
- (F) Records pertaining to business conducted pursuant to Chapter 1322. of the Revised Code may be maintained in their original paper form or on an electronic storage media or system. Any records maintained on an electronic storage media or system shall meet all of the following requirements:

- (1) The electronic storage media or system must preserve the records in a non-rewriteable, non-erasable format;
- (2) The electronic storage media or system must verify automatically the quality and accuracy of the storage media recording process;
- (3) The electronic storage media or system must serialize the original and the duplicate units of storage media, and affix a date and time for the required period of retention on both the original and duplicate;
- (4) The electronic storage media or system must have the capacity to readily download indices and records preserved on the electronic storage media or system to any medium acceptable to the superintendent;
- (5) Acceptable facilities and appropriate equipment must, at all times during normal business hours, be available to the superintendent for immediate, easily readable projection or production of electronic storage media or system images and for producing easily readable images;
- (6) Immediate facsimile enlargement must be available upon the superintendent's request;
- (7) A duplicate copy of the electronic record stored on any electronic media or system for the time required must be stored separately from the "original" electronic record;
- (8) The electronic storage media or system must organize and index accurately all information maintained on both the original and duplicate storage media or system. At all times, a registrant or qualified exempt entity must be able to have indices of the electronic records being stored available for examination by the superintendent. Each index must also be duplicated and the duplicate copies must be stored separately from the original copy of each index. Original and duplicate indices must be preserved for the time required for the indexed records;
- (9) An audit system will be in place providing for accountability regarding inputting of records and inputting any changes made to every original and duplicate record maintained and preserved. At all times, a registrant or qualified exempt entity must be able to have the results of the audit system available for examination by the superintendent. The audit results must be preserved for the time required for the audited records;
- (10) All information necessary to access records and indices stored on the electronic storage media or system, a copy of the physical and logical file format

of the electronic storage media or system, the field format of all different information types written on the electronic storage media or system, together with the appropriate documentation and information necessary to access records and indices will be maintained, kept current, and provided promptly to the superintendent, upon request;

- (11) No paper documents produced or reproduced by means of an electronic storage media or system shall be destroyed until the conditions of this paragraph have been met with regard to each paper document that is to be destroyed; and
 - (12) 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. The superintendent may grant additional time for good cause shown upon receipt of a request for additional time from the registrant or qualified exempt entity.
- (G) A registrant or qualified exempt entity shall create, maintain, keep current, and preserve the following books and records:
- (1) A searchable electronic spreadsheet of all borrowers for whom the registrant or qualified exempt entity has obtained residential mortgage loans. The spreadsheet shall contain for each borrower the closing date of the residential mortgage loan obtained for the borrower, the amount of the residential mortgage loan, the licensee responsible for originating the residential mortgage loan, the identity of the lender that funded or purchased the residential mortgage loan, the residential mortgage loan application date, the residential mortgage loan program type, the property address, and the identifying loan number;
 - (2) A borrower file for each application received which shall contain, when applicable, at least the following:
 - (a) A copy of the initial and final residential mortgage loan applications signed and dated by the borrower and the licensee originating the residential mortgage loan, including any attachments, supplements, or addenda thereto;
 - (b) Copies of verification documentation, including written authorizations to order credit reports, income verifications, deposit and asset verification, all copies of the credit reports and any supplements to the credit report, and any correspondence to any person regarding credit repair;
 - (c) Copies of written or electronic communications, including underwriting decisions, opinions, or prequalification correspondence, interest rate

lock-ins, residential mortgage loan commitments, and notes in connection with that residential mortgage loan application or its ultimate disposition;

- (d) Copies of all state and federal disclosures or forms applicable to the borrower, both initial and any revised versions.
 - (e) A copy of each appraisal and the corresponding appraisal invoice and order form; and
 - (f) Receipts or other documentation for any fees collected by the registrant or qualified exempt entity from the borrower for payment to bona fide, third-party service providers.
- (3) A file of all advertisements.
- (4) General business records, including:
- (a) All agreements with lenders to whom residential mortgage loan applications are submitted;
 - (b) All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and canceled checks or electronic images;
 - (c) Copies of checks made payable to a registrant or qualified exempt entity from a borrower or other entity paying a fee for the services of the registrant, qualified exempt entity, or licensee;
 - (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 or qualified exempt entity. 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 or qualified exempt entity 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 residential mortgage broker or mortgage lending services, including any agreements for the pricing of goods or services, any investor contracts, any employment agreements, and any non-compete agreements;

- (g) Copies of organizational documents, including articles of incorporation, corporate minutes, and documents evidencing corporate name changes; and change of ownership or officers; and
 - (h) Such other books and records as the superintendent may require.
- (H) A registrant or qualified exempt entity shall comply with rules promulgated under 15 U.S.C. 1681w and 15 U.S.C. 6801, including 16 C.F.R. Part 313 and 16 C.F.R. Part 682, as those rules are in effect May 1, 2024.

(I)

- (1) A mortgage servicer will retain records that document actions taken with respect to a borrower's residential mortgage loan account until four years after the date a residential mortgage loan is discharged or servicing of a residential mortgage loan is transferred by the mortgage servicer to a transferee mortgage servicer.
- (2) A mortgage servicer will maintain the following documents and data on each residential mortgage loan account serviced by the mortgage servicer in a manner that facilitates compiling such documents and data into a servicing file within five days of a borrower's request:
 - (a) A schedule of all transactions credited or debited to the residential mortgage loan account, including any escrow account as defined in 12 C.F.R. 1024.17(b) as is in effect June 1, 2025, and any suspense account;
 - (b) A copy of the security instrument that establishes the lien securing the residential mortgage loan;
 - (c) Any notes created by mortgage servicer personnel reflecting communications with the borrower about the residential mortgage loan account;
 - (d) To the extent applicable, a report of the data fields relating to the borrower's residential mortgage loan account created by the mortgage servicer's electronic systems in connection with servicing practices;
 - (e) Copies of any information or documents provided by the borrower to the mortgage servicer in accordance with the procedures set forth in rule 1301:8-7-38 of the Administrative Code and, for a mortgage servicer that is not a small servicer as defined in 12 C.F.R. 1026.41(e)(4) as in effect on June 1, 2025, 12 C.F.R. 1024.41, as in effect on June 1, 2025.

(3) As used in paragraph (I) of this rule, "escrow account" and "transferee mortgage servicer" have the same meanings as in rule 1301:8-7-35 of the Administrative Code.

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Prohibited practices.

Conduct that constitutes improper, fraudulent, or dishonest dealings under division (C) of section 1322.40 of the Revised Code includes the following:

- (A) Failing to return all original documents provided to the registrant or licensee by the borrower;
- (B) Permitting an unlicensed individual to originate residential mortgage loans;
- (C) Sharing or splitting any commission, discount, fee, or other compensation for originating a residential mortgage loan with a person who is not licensed or registered under Chapter 1322. of the Revised Code but who should be licensed or registered;
- (D) Knowingly aiding, abetting, or conspiring with a person to circumvent the requirements of Chapter 1322. of the Revised Code or this rule chapter;
- (E) Recommending or encouraging default or delinquency, or continuation of an existing default or delinquency, by a borrower on any existing indebtedness prior to closing a residential mortgage loan which refinances all or a portion of such existing indebtedness;
- (F) Promising to refinance a residential mortgage loan in the future at a lower interest rate or with more favorable terms;
- (G) Materially underestimating closing costs;
- (H) Depositing any residential mortgage loan disbursement check that is not made payable to the registrant, qualified exempt entity, or licensee;
- (I) Abandoning or improperly disposing of loan files containing financial and mortgage information of borrowers;
- (J) Refusing or failing to fund a consummated loan, other than when a borrower rescinds the loan in accordance with 12 C.F.R. 1026.15 or 1026.23 (relating to the right of rescission), as in effect on May 1, 2024;
- (K) Evading the limits on points and fees for qualified mortgages set forth in 12 C.F.R. 1026.43(e)(3), as in effect on May 1, 2024, by conducting business in conjunction with a person registered or who should be registered pursuant to Chapter 4712. of the Revised Code. Assisting a borrower with improving his or her credit record, history, or rating as well as removing adverse credit information are considered part of the normal activities of a registrant or qualified exempt entity;

(L)

- (1) A mortgage servicer assessing on a borrower a premium charge or fee related to force-placed insurance unless both of the following apply:
- (a) The mortgage servicer has a reasonable basis to believe that the borrower has failed to comply with the residential mortgage loan contract's requirement to maintain hazard insurance;
 - (b) The mortgage servicer delivers or mails to the borrower a written notice at least forty-five days before assessing such charge or fee.
- (2) As used in this paragraph, "force-placed insurance" means hazard insurance obtained by a mortgage servicer on behalf of the owner or assignee of a mortgage loan that insures the property securing such loan, but does not include any of the following:
- (a) Hazard insurance required by the federal Flood Disaster Protection Act of 1973, 87 Stat. 975, 42 U.S.C. 4002 et seq., as in effect on June 1, 2025;
 - (b) Hazard insurance obtained by a borrower but renewed by the borrower's mortgage servicer as described in 12 C.F.R. 1024.17(k)(1), (2), or (5), as in effect on June 1, 2025;
 - (c) Hazard insurance obtained by a borrower but renewed by the borrower's mortgage servicer at its discretion, if the borrower agrees.
- (3) As used in paragraph (L) of this rule, "hazard insurance" means insurance on the property securing a residential mortgage loan that protects the property against loss caused by fire, wind, flood, earthquake, theft, falling objects, freezing, and other similar hazards for which the owner or assignee of such residential mortgage loan requires insurance.
- (M) A mortgage servicer directly or indirectly employing any scheme, device, or artifice to defraud or mislead a borrower or mortgage lender or to defraud any person;
- (N) A mortgage servicer misrepresenting or omitting any material information in connection with the servicing of a residential mortgage loan, including misrepresenting the amount, nature, or terms of any fee or payment due or claimed to be due on a residential mortgage loan, the terms and conditions of the servicing agreement, or the borrower's obligations under the residential mortgage loan;
- (O) A mortgage servicer failing to apply payments in accordance with a servicing agreement or the terms of a note;

(P) A mortgage servicer making payments in a manner that causes a policy of insurance to be canceled or causes property taxes or similar payments to become delinquent;

(Q)

(1) A mortgage servicer failing to credit a periodic payment to the borrower's account as of the date of receipt, except when a delay in crediting does not result in any charge to the borrower or in the reporting of negative information to a consumer reporting agency, or except as provided in paragraph (Q)(3) of this rule. For purposes of this rule, a periodic payment is an amount sufficient to cover principal, interest, and escrow for a given billing cycle. A payment qualifies as a periodic payment even if it does not include amounts required to cover late fees, other fees, or non-escrow payments a mortgage servicer has advanced on a borrower's behalf.

(2) In the case of a mortgage servicer that retains a partial payment in a suspense or unapplied funds account, upon accumulation of sufficient funds to cover a periodic payment in any suspense or unapplied funds account, failing to treat such funds as a periodic payment received in accordance with paragraph (S) (1) of this rule;

(3) If a mortgage servicer specifies in writing requirements for the borrower to follow in making payments, but accepts a payment that does not conform to the requirements, failing to credit the payment as of five days after receipt.

(4) As used in paragraph (Q) of this rule, "partial payment" means a payment that is less than a periodic payment.

(R) A mortgage servicer requiring any amount of money to be remitted by means which are more costly to the borrower than a bank or certified check or attorney's check from an attorney's account to be paid by the borrower;

(S) A mortgage servicer failing to satisfy a claim, related to activity conducted pursuant to Chapter 1322. of the Revised Code, that has been reduced to a judgment;

(T) A mortgage servicer commingling the money or property of a borrower or mortgage lender with the money or property of the mortgage servicer, or converting the money or property of another person to the mortgage servicer's own use;

(U) A mortgage servicer charging a fee for any of the following:

(1) Handling a borrower dispute;

(2) Facilitating routine borrower collection;

(3) Arranging a repayment or forbearance plan;

(4) Sending a borrower a notice of nonpayment;

(5) Updating records to reinstate a residential mortgage loan.

(V) A mortgage servicer imposing a late fee or delinquency charge for a payment if both of the following apply:

(1) Such a fee or charge is attributable solely to failure of the borrower to pay a late fee or delinquency charge on an earlier payment;

(2) The payment is otherwise a periodic payment received on the due date, or within any applicable courtesy period.

~~(L)~~(W) Any other conduct the superintendent determines constitutes improper, fraudulent, or dishonest dealings.

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1301:8-7-35**Mortgage servicing definitions.**

As used in rules 1301:8-7-35 to 1301:8-7-40 of the Administrative Code:

(A) "Confirmed successor in interest" means a successor in interest once a mortgage servicer has confirmed the successor in interest's identity and ownership interest in a property that secures a residential mortgage loan.

(B) "Dealer" means the following:

(1) In the case of property improvement loans, a seller, contractor, or supplier of goods or services;

(2) In the case of a residential mortgage loan for manufactured housing, one who engages in the business of the sale at retail of manufactured housing. As used in this paragraph, "manufactured housing" and "sale at retail" have the same meanings as in section 4781.01 of the Revised Code.

(C) "Dealer loan" means any arrangement in which a dealer assists the borrower in obtaining a residential mortgage loan from the funding mortgage lender and then assigns the dealer's legal interests to the funding mortgage lender and receives the net proceeds of the loan.

(D) "Escrow account" means any account that a mortgage servicer establishes or controls on behalf of a borrower to pay taxes, insurance premiums including premiums for flood insurance, or other charges with respect to a residential mortgage loan, including charges that the borrower and mortgage servicer have voluntarily agreed that the mortgage servicer should collect and pay. "Escrow account" includes any account established for this purpose, including a trust account, reserve account, impound account, or other similar account. "Escrow account" includes any arrangement in which a mortgage servicer adds a portion of the borrower's payments to principal and subsequently deducts from principal the disbursements for escrow account items. "Escrow account" does not include any account that is under the borrower's total control.

(E) "Federal lending law," as used in section 1322.50 of the Revised Code, includes 12 C.F.R. Part 1024 Subpart C and the following provisions of 12 C.F.R. Part 1026 as they apply to a mortgage servicer, as those rules are in effect on June 1, 2025:

(1) 12 C.F.R. 1026.29(f)(5);

(2) 12 C.F.R. 1026.20;

(3) 12 C.F.R. 1026.25(c)(1)(ii)(B);

(4) 12 C.F.R. 1026.34(a)(9):

(5) 12 C.F.R. 1026.35(b)(3):

(6) 12 C.F.R. 1026.39:

(7) 12 C.F.R. 1026.41.

(F) "Qualified written request" means a written correspondence from a borrower to a mortgage servicer that includes, or otherwise enables the mortgage servicer to identify, the name and account of the borrower, and does one of the following:

(1) A transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(2) A transfer to a relative resulting from the death of a borrower;

(3) A transfer by which the spouse or children of the borrower become an owner of the property;

(4) A transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the borrower becomes an owner of the property;

(5) A transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property.

(G) "Residential mortgage loan" does not include an open-end line of credit.

(H) "Table funding" means a settlement at which a residential mortgage loan is funded by a contemporaneous advance of residential mortgage loan funds and an assignment of the residential mortgage loan to the person advancing the funds.

(I) "Transferee mortgage servicer" means a mortgage servicer that obtains or will obtain the right to perform servicing pursuant to an agreement or understanding.

(J) "Transferor mortgage servicer" means a servicer, including a table-funding mortgage broker or dealer on a first-lien dealer loan, that transfers or will transfer the right to perform servicing pursuant to an agreement or understanding.

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1301:8-7-36**Mortgage servicing transfers.**

(A) During the sixty-day period beginning on the effective date of transfer of the servicing of any residential mortgage loan, if the transferor mortgage servicer, rather than the transferee mortgage servicer that should properly receive payment on the loan, receives payment on or before the applicable due date, including any grace period allowed under the mortgage loan instruments, a payment will not be treated as late for any purpose.

(B) Beginning on the effective date of transfer of the servicing of any mortgage loan, with respect to payments received incorrectly by the transferor mortgage servicer, rather than the transferee mortgage servicer that should properly receive the payment on the loan, the transferor mortgage servicer will promptly do either of the following:

- (1) Transfer the payment to the transferee mortgage servicer for application to a borrower's residential mortgage loan account;
- (2) Return the payment to the person that made the payment and notify such person of the proper recipient of the payment.

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1301:8-7-37**Timely escrow payments and treatment of escrow account balances.**

- (A) If the terms of a residential mortgage loan require the borrower to make payments to the mortgage servicer of the residential mortgage loan for deposit into an escrow account to pay taxes, insurance premiums, and other charges for the mortgaged property, the mortgage servicer will make payments from the escrow account in a timely manner, that is, on or before the deadline to avoid a penalty, so long as the borrower's payment is not more than thirty days overdue.
- (B) Except as provided in paragraph (C) of this rule, within twenty business days of a borrower's payment of a residential mortgage loan in full, a mortgage servicer will return to the borrower any amounts remaining in an escrow account that is within the mortgage servicer's control.
- (C) If the borrower agrees, a mortgage servicer may credit any amounts remaining in an escrow account that is within the mortgage servicer's control to an escrow account for a new residential mortgage loan as of the date of the settlement of the new residential mortgage loan if the new residential mortgage loan is provided to the borrower by a mortgage lender that meets any of the following criteria:
- (1) The mortgage lender was also the lender to whom the prior residential mortgage loan was initially payable;
 - (2) The mortgage lender is the owner or assignee of the prior residential mortgage loan;
 - (3) The mortgage lender uses the same mortgage servicer that serviced the prior residential mortgage loan to service the new residential mortgage loan.

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1301:8-7-38**Error resolution procedures.**

(A) A mortgage servicer will comply with this rule for any written notice from the borrower that asserts an error and that includes the name of the borrower, information that enables the mortgage servicer to identify the borrower's residential mortgage loan account, and the error the borrower believes has occurred. A notice on a payment coupon or other payment form supplied by the mortgage servicer need not be treated by the mortgage servicer as a notice of error. A qualified written request that asserts an error relating to the servicing of a residential mortgage loan is a notice of error for purposes of this rule, and a mortgage servicer will comply with all requirements applicable to a notice of error with respect to such qualified written request.

(B) As used in this rule, "error" means any of the following:

- (1) Failure to accept a payment that conforms to the mortgage servicer's written requirements for the borrower to follow in making payments;
- (2) Failure to apply an accepted payment to principal, interest, escrow, or other charges under the terms of the residential mortgage loan and applicable law;
- (3) Failure to credit a payment to a borrower's mortgage loan account as of the date of receipt in violation of paragraph (Q) of rule 1301:8-7-16 of the Administrative Code;
- (4) Failure to pay taxes, insurance premiums, or other charges, including charges that the borrower and mortgage servicer have voluntarily agreed that the mortgage servicer should collect and pay, in a timely manner as required by paragraph (A) of rule 1301:8-7-37 of the Administrative Code, or to refund an escrow account balance as required by paragraph (B) of rule 1301:8-7-37 of the Administrative Code;
- (5) Imposition of a fee or charge that the mortgage servicer lacks a reasonable basis to impose upon the borrower;
- (6) Failure to provide an accurate payoff balance amount not more than seven business days following a borrower's request, or, if unable to do so within seven business days because a residential mortgage loan is in bankruptcy or foreclosure, because the residential mortgage loan is a reverse mortgage, or because of natural disasters or other similar circumstances, then within a reasonable time;
- (7) Failure to transfer accurately and timely information relating to the servicing of a borrower's residential mortgage loan account to a transferee mortgage servicer;

(8) Any other error relating to the servicing of a borrower's residential mortgage loan.

(C) A mortgage servicer may, by written notice provided to a borrower, establish an address that a borrower must use to submit a notice of error in accordance with the procedures in this rule. The notice will include a statement that the borrower must use the established address to assert an error. If a mortgage servicer designates a specific address for receiving notices of error, the mortgage servicer will designate the same address for receiving information requests pursuant to paragraph (B) of rule 1301:8-7-39 of the Administrative Code. A mortgage servicer will provide a written notice to a borrower before any change in the address used for receiving a notice of error. A mortgage servicer that designates an address for receipt of notices of error will post the designated address on any web site maintained by the mortgage servicer if the web site lists any contact address for the mortgage servicer.

(D) Within five business days of a mortgage servicer receiving a notice of error from a borrower, the mortgage servicer will provide to the borrower a written response acknowledging receipt of the notice of error.

(E)

(1)

(a) Except as provided in paragraphs (F) and (G) of this rule, a mortgage servicer will respond to a notice of error by doing either of the following:

(i) Correcting the errors identified by the borrower and providing the borrower with a written notification of the correction, the effective date of the correction, and contact information, including a telephone number, for further assistance;

(ii) Conducting a reasonable investigation and providing the borrower with a written notification that includes a statement that the mortgage servicer has determined that no error occurred, a statement of the reason or reasons for this determination, a statement of the borrower's right to request documents relied upon by the mortgage servicer in reaching its determination, information regarding how the borrower can request such documents, and contact information, including a telephone number, for further assistance.

(b) If during a reasonable investigation of a notice of error, a mortgage servicer concludes that errors occurred other than, or in addition to, the error or errors alleged by the borrower, the mortgage servicer will correct all such

additional errors and provide the borrower with a written notification that describes the errors the mortgage servicer identified, the action taken to correct the errors, the effective date of the correction, and contact information, including a telephone number, for further assistance.

(2) A mortgage servicer may request supporting documentation from a borrower in connection with the investigation of an asserted error, but will not do either of the following:

(a) Require a borrower to provide such information as a condition of investigating an asserted error;

(b) Determine that no error occurred because the borrower failed to provide any requested information without conducting a reasonable investigation pursuant to paragraph (E)(1)(a)(ii) of this rule.

(3)

(a) A mortgage servicer will comply with paragraph (E)(1) of this rule within the following time periods:

(i) Not later than seven business days after the mortgage servicer receives the notice of error for errors asserted under paragraph (B)(6) of this rule;

(ii) For all other asserted errors, not later than thirty business days after the mortgage servicer receives the applicable notice of error.

(iii) For all other asserted errors, not later than thirty business days after the mortgage servicer receives the applicable notice of error.

(b) For asserted errors governed by the time limit set forth in paragraph (E)(3)(a)(ii) of this rule, a mortgage servicer may extend the time period for responding by an additional fifteen business days if, before the end of the thirty-day period, the mortgage servicer notifies the borrower of the extension and the reasons for the extension in writing. A mortgage servicer will not extend the time period for responding to errors asserted under paragraph (B)(6) of this rule.

(4) A mortgage servicer will provide to the borrower, at no charge, copies of documents and information relied upon by the mortgage servicer in making its determination that no error occurred within fifteen business days of receiving the borrower's request for such documents. A mortgage servicer is not required to provide documents relied upon that constitute confidential, proprietary, or

privileged information. If a mortgage servicer withholds documents relied upon because it has determined that such documents constitute confidential, proprietary, or privileged information, the mortgage servicer will notify the borrower of its determination in writing within fifteen business days of receipt of the borrower's request for such documents.

(5) In its response to a request for documentation under paragraph (E)(4) of this rule, a mortgage servicer may omit location and contact information and personal financial information, other than information about the terms, status, and payment history of the residential mortgage loan, if either of the following applies:

(a) The information pertains to a potential or confirmed successor in interest who is not the requester;

(b) The requester is a confirmed successor in interest and the information pertains to any borrower who is not the requester.

(F) A mortgage servicer is not required to comply with paragraphs (D) and (E) of this rule if the mortgage servicer corrects all errors asserted by the borrower and notifies the borrower of that correction in writing within five business days of receiving the notice of error

(G)

(1) A mortgage servicer is not required to comply with paragraphs (D), (E), or (I) of this rule if the mortgage servicer reasonably determines that any of the following apply:

(a) The asserted error is substantially the same as an error previously asserted by the borrower for which the mortgage servicer has previously complied with its obligation to respond pursuant to paragraphs (D) and (E) of this rule, unless the borrower provides new and material information to support the asserted error. As used in this paragraph, "new and material information" means information that was not reviewed by the mortgage servicer in connection with investigating a prior notice of the same error and is reasonably likely to change the mortgage servicer's prior determination about the error.

(b) The notice of error is overbroad. A notice of error is overbroad if the mortgage servicer cannot reasonably determine from the notice of error the specific error that the borrower asserts has occurred on a borrower's account. To the extent a mortgage servicer can reasonably identify a valid

assertion of an error in a notice of error that is otherwise overbroad, the mortgage servicer will comply with paragraphs (D), (E) and (I) of this rule with respect to that asserted error.

(c) A notice of error is delivered to the mortgage servicer more than one year after either of the following events:

(i) Servicing for the residential mortgage loan that is the subject of the asserted error was transferred from the mortgage servicer receiving the notice of error to a transferee mortgage servicer;

(ii) The residential mortgage loan is discharged.

(2) If a mortgage servicer determines that, pursuant to this paragraph (G), the mortgage servicer is not required to comply with paragraphs (D), (E), and (I) of this rule, the mortgage servicer will notify the borrower of its determination in writing not later than five business days after making such determination. The notice to the borrower will set forth the basis under paragraph (G)(1) of this rule upon which the mortgage servicer has made such determination.

(H) A mortgage servicer will not charge a fee, or require a borrower to make any payment that may be owed on a borrower's account, as a condition of responding to a notice of error.

(I)

(1) After receipt of a notice of error, a mortgage servicer will not, for sixty days, furnish adverse information to any consumer reporting agency regarding any payment that is the subject of the notice of error.

(2) Nothing in this rule limits or restricts a mortgage lender or mortgage servicer from pursuing any remedy it has under applicable law, including initiating foreclosure or proceeding with a foreclosure sale.

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1301:8-7-39**Requests for information.**

(A) A mortgage servicer will comply with this rule for any written request for information from a borrower that includes the name of the borrower, information that enables the mortgage servicer to identify the borrower's residential mortgage loan account, and states the information the borrower is requesting with respect to the borrower's residential mortgage loan. A request on a payment coupon or other payment form supplied by the mortgage servicer need not be treated by the mortgage servicer as a request for information. A request for a payoff balance need not be treated by the mortgage servicer as a request for information. A qualified written request that requests information relating to the servicing of the mortgage loan is a request for information for purposes of this rule, and a mortgage servicer will comply with all requirements applicable to a request for information with respect to such qualified written request.

(B) A mortgage servicer may, by written notice provided to a borrower, establish an address that a borrower must use to request information in accordance with the procedures in this section. The notice will include a statement that the borrower must use the established address to request information. If a mortgage servicer designates a specific address for receiving information requests, a mortgage servicer will designate the same address for receiving notices of error pursuant to paragraph (C) of rule 1301:8-7-38 of the Administrative Code. A mortgage servicer will provide a written notice to a borrower before any change in the address used for receiving an information request. A mortgage servicer that designates an address for receipt of information requests will post the designated address on any web site maintained by the mortgage servicer if the web site lists any contact address for the mortgage servicer.

(C) Within five business days of a mortgage servicer receiving an information request from a borrower, the mortgage servicer will provide to the borrower a written response acknowledging receipt of the information request.

(D)

(1) Except as provided in paragraphs (E) and (F) of this section, a mortgage servicer will respond to an information request by doing one of the following:

(a) Providing the borrower with the requested information and contact information, including a telephone number, for further assistance in writing;

(b) Conducting a reasonable search for the requested information and providing the borrower with a written notification that states that the mortgage servicer has determined that the requested information is not available

to the mortgage servicer, provides the basis for the mortgage servicer's determination, and provides contact information, including a telephone number, for further assistance.

(2)

(a) A mortgage servicer will comply with paragraph (D)(1) of this section within the following time periods:

(i) Not later than ten business days after the mortgage servicer receives an information request for the identity of, and address or other relevant contact information for, the owner or assignee of a residential mortgage loan;

(ii) For all other requests for information, not later than thirty business days after the mortgage servicer receives the information request.

(b) For requests for information governed by the time limit set forth in paragraph (D)(2)(a)(ii) of this rule, a mortgage servicer may extend the time period for responding by an additional fifteen business days if, before the end of the thirty-day period, the mortgage servicer notifies the borrower of the extension and the reasons for the extension in writing. A mortgage servicer may not extend the time period for requests for information governed by paragraph (D)(2)(a)(i) of this rule.

(3) In its response to a request for information, a mortgage servicer may omit location and contact information and personal financial information, other than information about the terms, status, and payment history of the mortgage loan, if either of the following applies:

(a) The information pertains to a potential or confirmed successor in interest who is not the requester;

(b) The requester is a confirmed successor and the information pertains to any borrower who is not the requester.

(E) A mortgage servicer is not required to comply with paragraphs (C) and (D) of this rule if the mortgage servicer provides the borrower with the information requested and contact information, including a telephone number, for further assistance in writing within five business days of receiving an information request.

(F)

- (1) A mortgage servicer is not required to comply with paragraphs (C) and (D) of this section if the mortgage servicer reasonably determines that any of the following apply:
- (a) The information requested is substantially the same as information previously requested by the borrower for which the mortgage servicer has previously complied with its obligation to respond pursuant to paragraphs (C) and (D) of this rule;
 - (b) The information requested is confidential, proprietary, or privileged;
 - (c) The information requested is not directly related to the borrower's residential mortgage loan account;
 - (d) The information request is overbroad or unduly burdensome. An information request is overbroad if a borrower requests that the mortgage servicer provide an unreasonable volume of documents or information to a borrower. An information request is unduly burdensome if a diligent mortgage servicer could not respond to the information request without either exceeding the maximum time limit permitted by paragraph (D)(2) of this rule or incurring costs or dedicating resources that would be unreasonable in light of the circumstances. To the extent a mortgage servicer can reasonably identify a valid information request in a submission that is otherwise overbroad or unduly burdensome, the mortgage servicer will comply with paragraphs (C) and (D) of this rule with respect to that requested information.
 - (e) The information request is delivered to a mortgage servicer more than one year after either of the following:
 - (i) Servicing for the mortgage loan that is the subject of the information request was transferred from the mortgage servicer receiving the request for information to a transferee mortgage servicer;
 - (ii) The residential mortgage loan is discharged.
- (2) If a mortgage servicer determines that, pursuant to paragraph (F)(1) of this rule, the mortgage servicer is not required to comply with paragraphs (C) and (D) of this section, the mortgage servicer will notify the borrower of its determination in writing not later than five business days after making such determination. The notice to the borrower will set forth the basis under paragraph (F)(1) of this rule upon which the mortgage servicer has made such determination.

(G) A mortgage servicer will not charge a fee, or require a borrower to make any payment that may be owed on a borrower's account, as a condition of responding to an information request.

(H) Nothing in this rule prohibits a mortgage servicer from furnishing adverse information to any consumer reporting agency or pursuing any of its remedies, including initiating foreclosure or proceeding with a foreclosure sale, allowed by the underlying residential mortgage loan instruments, during the time period that response to an information request notice is outstanding.

(I)

(1) With respect to any written request from a person that indicates that the person may be a successor in interest and that includes the name of the transferor borrower from whom the person received an ownership interest and information that enables the mortgage servicer to identify the residential mortgage loan account, a mortgage servicer will respond by providing the potential successor in interest with a written description of the documents the mortgage servicer reasonably requires to confirm the person's identity and ownership interest in the property and contact information, including a telephone number, for further assistance. With respect to the written request, a mortgage servicer will treat the potential successor in interest as a borrower for purposes of the requirements of paragraphs (C) through (G) of this rule.

(2) If a written request under paragraph (I)(1) of this rule does not provide sufficient information to enable the mortgage servicer to identify the documents the mortgage servicer reasonably requires to confirm the person's identity and ownership interest in the property, the mortgage servicer may provide a response that includes examples of documents typically accepted to establish identity and ownership interest in a property; indicates that the person may obtain a more individualized description of required documents by providing additional information; specifies what additional information is required to enable the mortgage servicer to identify the required documents; and provides contact information, including a telephone number, for further assistance. A mortgage servicer's response under paragraph (I)(2) of this rule will otherwise comply with paragraph (I)(1) of this rule. Notwithstanding paragraph (F)(1) (a) of this rule, if a potential successor in interest subsequently provides orally or in writing the required information specified by the mortgage servicer pursuant to paragraph (I)(2) of this rule, the mortgage servicer will treat the new information, together with the original request, as a new, non-duplicative request under paragraph (I)(1) of this rule, received as of the date the required information was received, and will respond accordingly.

- (3) In responding to a request under paragraph (I)(1) of this rule prior to confirmation, the mortgage servicer is not required to provide any information other than the information specified in paragraphs (I)(1) and (2) of this rule. In responding to a written request under paragraph (I)(1) of this rule that requests other information, the mortgage servicer will indicate that the potential successor in interest may resubmit any request for information once confirmed as a successor in interest.
- (4) If a mortgage servicer has established an address that a borrower must use to request information pursuant to paragraph (B) of this rule, a mortgage servicer will comply with the requirements of paragraph (I)(1) of this rule only for requests received at the established address.

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Mortgage servicer obligations upon loss of license.

The revocation, suspension, or failure to obtain and maintain a license does not impair or affect a mortgage servicer's obligations under a preexisting lawful contract with a mortgage lender or borrower.

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