

*** DRAFT - NOT YET FILED ***

1301:8-7-06

Recordkeeping.

- (A) In accordance with division (B) of section 1322.06 of the Revised Code and division (C)(4) of 1322.022 of the Revised Code, a registrant or qualified exempt entity shall maintain records pertaining to business transacted pursuant to Chapter 1322. of the Revised Code for four calendar years. 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) A registrant or qualified exempt entity who maintains its records pertaining to business transacted pursuant to Chapter 1322. of the Revised Code in a location outside Ohio shall pay 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 travel, lodging and per diem expenses, 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 any specific typeface or font size that may be required by 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 underwriter whose decision was relied upon to close and fund the residential mortgage loan, the property address, and the identifying loan number;

(2) A complete signed copy of every final settlement statement, arranged chronologically, for every residential mortgage loan originated by the registrant or qualified exempt entity on behalf of a borrower. The settlement statement file shall be maintained separately from the settlement statements contained in the individual borrower files.

(3) 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, but not limited to,

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, but not limited to, 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 required 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.

(4) A file of all advertisements.

(5) General business records, including, but not limited to:

(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 cancelled 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 but not limited to 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, but not limited to, articles of incorporation, corporate minutes, and documents evidencing corporate name changes, change of ownership or officers; and

(h) Such other books and records as the superintendent may require.

(H) In order to reduce the risk of consumer fraud and related harms, including identity theft, registrants and qualified exempt entities shall be required to comply with section 216 of the "Fair and Accurate Credit Transactions Act of 2003," 117 Stat. 1952 (amended 2010), 15 U.S.C. 1681w as in effect on January 12, 2014, section 501 of the "Gramm Leach Bliley Act," 113 Stat. 1338 (1999) (amended 2010), 15 U.S.C. 6801 as in effect on January 12, 2014, and the rules promulgated pursuant to those federal acts, including 16 C.F.R. Part 313 and 16 C.F.R. Part 682, as in effect January 12, 2014, pertaining to the maintenance, security, and disposal of consumer information and records.

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Certification

Date

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