



March 1, 2019

PROPOSED RULES FOR OHIO GENERAL LOAN LAW (FORMERLY OHIO MORTGAGE LOAN ACT)

The Ohio Division of Financial Institutions circulated proposed rules under the General Loan Law ("GLL") (formerly Mortgage Loan Act) for preliminary feedback. The Division requested feedback by March 8, 2019.

The proposed rules make several substantive changes that are not supported by the statute. The proposed rules add two new broad categories to the recordkeeping requirements:

- (1) General business records including, but not limited to, financial statements, check registers, bank statements, contracts with third party vendors relating to lending services, policy and procedures manual, and training materials.
- (2) Any and all contracts or agreements relating to business relationships with businesses or individuals licensed by the division of financial institutions.

The proposed rules revise the definitions as follows:

- (1) Eliminate the direct mail definition;
- (2) Revise the definition of "condition of the loan" to eliminate the longstanding definition and add ambiguous language and an "example" that adds a prohibition on "financing" other transactions (under the guise of a revised definition);
- (3) Add a definition of "secured loan" that limits secured loans to loans secured by personal property or fixtures;
- (4) Add a definition that appears to be aimed at expanding the definition of refinancing to extend for 90 days the period during which a loan is considered refinanced.

Several of these "definition" changes would prohibit practices currently permitted under the law, and, thus, are not appropriate for the rulemaking process.

The General Provisions for Registrants rule deletes requirements applicable to mortgage loans with one exception that changes a requirement formerly applicable to mortgage loans to apply to non-mortgage loans and requires that borrowers are provided a written notice on default that includes a toll-free telephone number. The General Provisions for Registrants rule also deletes all

reference to the direct mail exception and the requirement that loans be signed at a registered location. Although the direct mail exception is not in the statute and the combined deletion of the direct mail exception and the registered location requirement should result in no impact to lenders, the deletions could create ambiguity regarding the ability to make loans over the internet or by mail.

As explained above, several of the proposed rule changes are reversals of longstanding interpretations of the GLL and without statutory authority. Thus, we encourage lenders to express their concern to the Division by the March 8, 2019 deadline.

Please contact us with any questions.

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