



April 23, 2020

OHIO DIVISION OF FINANCIAL INSTITUTIONS ADOPTS RULES FOR OHIO GENERAL LOAN LAW WITHOUT JCARR HEARING

The Ohio Division of Financial Institutions filed as final amended rules under the General Loan Law (“GLL”) (formerly Mortgage Loan Act). The new rules were originally proposed in March of 2019 to address the removal of mortgage lending from the GLL. The industry expressed concern that some of the GLL rules went beyond the Division’s statutory authority. The revised version of the GLL rules addressed some of the industries’ concerns. The Division filed the revised GLL rules with Joint Committee on Agency Rule Review (JCARR) in February and held a public hearing on March 12, 2020. The industry expressed its ongoing concerns with certain provisions of the amended GLL rules. The normal procedure is that JCARR would hold a hearing on the rules no earlier than 41 days after the proposed rules were filed and within 65 days from when the proposed rules were filed, 65 days being the length of JCARR’s jurisdiction to act on the rules according to the Ohio Revised Code. However, all JCARR hearings were cancelled in March and April. The Division went ahead and filed the GLL rules as final without a JCARR hearing and with an effective date of April 27, 2020. It is unclear if the action of the Division is permitted or required in light of Ohio H.B. No. 197 that tolls any administrative time limit set to expire between March 9, 2020, and July 30, 2020. Regardless, it is the Division’s position that the new GLL rules take effect on April 27, 2020.

The substantive changes in the new GLL rules that are not supported by the statute include the addition of 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 pertaining to loans made under the GLL.
- (2) Any and all contracts or agreements relating to business relationships with businesses or individuals licensed by the division of financial institutions.

Other changes made to the recordkeeping rule relate to electronic

record keeping and technology. The new GLL rules revise the definitions by deleting definitions relating to mortgage lending and eliminate the long standing definition of “condition of the loan.” The deletion of the definition of “condition of the loan” has the potential to create ambiguity in the future. Additional changes relate to removing references to mortgage lending in the GLL rules.

Please contact us with any questions regarding the new GLL rules.

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