

109:4-3-27

No reasonable probability of payment.

- (A) Pursuant to division (B)(14) of section 1345.031 of the Revised Code, no supplier shall enter into a consumer transaction knowing there was no reasonable probability of payment of the obligation by the consumer.
- (B) The supplier's analysis of the reasonable probability of payment of the obligation by the consumer may include, but shall not be limited to, verification of the borrower's current and expected income, current and expected cash flow, net worth and other financial resources (other than the consumer's equity in the dwelling that secures repayment of the loan), current financial obligations, property taxes and insurance, assessments on the property, employment status, credit history, and other relevant factors such as debt-to-income ratio, credit score, tax returns, pension statements, employment payment records, and statements or information submitted by the consumer in their mortgage loan application, provided that no supplier shall disregard facts and circumstances that indicate that the financial or other information submitted by the consumer is inaccurate or incomplete.
- (C) In addition to the factors listed in paragraph (B) of this rule, and without limiting the applicability of division (B)(14) of section 1345.031 of the Revised Code and this rule to all residential mortgage loan products, for nontraditional mortgage loan products and mortgage loan products with a discounted introductory rate, great weight and due consideration shall be given to the federal Interagency Guidance on Nontraditional Mortgage Product Risks, 71 Fed. Reg. 58,609 (2006), as amended, in deciding whether or not the supplier used a reasonable method of determining whether there was a reasonable probability of payment of the obligation by the consumer.
- (D) Neither division (B)(14) of section 1345.031 of the Revised Code nor this rule shall apply to reverse mortgages.
- (E) All records, worksheets, or supporting documentation used by the supplier in conducting an analysis of the reasonable probability of payment of the obligation by the consumer shall be maintained by that supplier in the consumer's loan file for each residential mortgage loan transaction for a period of at least two years from the date of closing, or as required by other applicable state or federal law, whichever time period is greater. The records required to be maintained by this rule may be retained in an electronic format.
- (F) For purposes of division (A) of this rule, a consumer shall be considered to have a reasonable probability of payment if the lender is offering a fully-amortizing fixed-rate refinance loan that has the same or lesser interest rate as the rate of the consumer's current loan, the same or lesser principal amount as the consumer's current loan, and does not extend the payoff date of the consumer's current loan. If the consumer currently has an adjustable rate mortgage, the interest rate of the

consumer's current loan is the interest rate the consumer is paying as of the date of the refinance.

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CERTIFIED ELECTRONICALLY

Certification

03/20/2012

Date

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