

109:4-3-19

**Determining a Consumer's Ability to Repay a Residential Mortgage Loan .**

- (A) Section 1345.031(B)(2) of the Revised Code prohibits a supplier from engaging in a pattern or practice of providing residential mortgage loan transactions to consumers based predominantly on the supplier's realization of the foreclosure or liquidation value of the consumer's collateral without regard to the consumer's ability to repay the loan in accordance with its terms, provided that the supplier may use any reasonable method to determine a borrower's ability to repay the loan. Such methods 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, 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 reports, 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.
- (B) "Pattern or practice" is not established by isolated, random, or accidental acts, it can be established without the use of a statistical process. In addition, a supplier may be acting pursuant to a written or unwritten policy and that action alone could establish a pattern or practice of making mortgage loans in violation of this section.
- (C) "The supplier's realization of the foreclosure value of the consumer's collateral" means the amount of money the supplier would reasonably be expected to recoup from the proceeds of a court-ordered sale of the collateral through a foreclosure action.
- (D) "The supplier's realization of the liquidation value of the consumer's collateral" means the amount of money the supplier would reasonably be expected to recoup from the proceeds of a sale of the collateral by the consumer.
- (E) For nontraditional mortgage loan products and mortgage loans with a discounted introductory rate the supplier's analysis of a consumer's ability to repay the loan in accordance with its terms should include an evaluation of the consumer's ability to repay the loan by final maturity at the fully indexed rate, assuming a fully amortizing repayment schedule. In addition, for mortgage loan products that permit negative amortization, the ability to repay analysis should be based upon the initial loan amount plus any balance increase that may accrue from the negative amortization provision.
- (1) For purposes of this section "nontraditional mortgage loan products" are closed-end residential mortgage loans that allow borrowers to defer the repayment principal, and sometimes interest, including such mortgage products as "interest only" mortgages, where the borrower pays no loan principal for the first few years of the loan, and "payment option" adjustable

rate mortgages where the borrower has flexible payment options with the potential for negative amortization of the loan.

(2) For purposes of this section "discounted introductory rate" means an interest rate that by the terms of the mortgage loan agreement, will increase at the expiration of the introductory time period, or by the occurrence of a specific triggering event, to a specific higher interest rate.

(F) This section shall not apply to reverse mortgages.

(G) All records, worksheets, or supporting documentation used by the supplier in conducting an analysis of the consumer's ability to repay the loan in accordance with its terms shall be maintained by that supplier in the consumer's loan file for each residential mortgage loan transaction. The records required to be maintained by this section may be retained in an electronic format.

Effective:

R.C. 119.032 review dates:

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Certification

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Date

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Statutory Authority:	1345.05
Rule Amplifies:	Chapter 1345