

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 1301:8-10-01

**Rule Type:** No Change

**Rule Title/Tagline:** Criteria for qualifying to provide counseling services.

**Agency Name:** Department of Commerce

**Division:** Division of Financial Institutions: Consumer Finance

**Address:** 77. S. High Street, 21st Floor Columbus OH 43215

**Contact:** Yosef Schiff **Phone:** 614-466-3723

**Email:** Yosef.Schiff@com.ohio.gov

#### I. Rule Summary

1. Is this a five year rule review? Yes
  - A. What is the rule's five year review date? 2/27/2025 and 02/27/2030
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 1349.36
5. What statute(s) does the rule implement or amplify? 1349.27, 1349.271, 1349.32
6. What are the reasons for proposing the rule?

The rule is due for a five-year review.

7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

R.C. 1349.27 prohibits a mortgage lender from making a high-cost mortgage loan (a mortgage loan that exceeds a specified APR or has points and fees exceeding a specified amount) to a person whose total monthly debt exceeds 50% of their monthly gross income, unless the consumer does two things. First, they must verify they have received prepurchase counseling from a counseling service that meets the criteria

established by the Superintendent of Financial Institutions. And second, they must sign a disclosure acknowledging the risks of entering into the loan.

This rule sets forth the criteria such a counseling service must meet.

First, the counseling service must be one of the following:

- Certified by the U.S. Dept. of Housing and Urban Development (HUD);
- A not-for-profit credit counseling service approved by a federal agency.

A counseling service that meets the above criteria is subject to the following restrictions:

- It cannot provide prepurchase counseling if it was also involved in making or brokering the subject loan.
- It must register with the Ohio Secretary of State.
- It must comply with any applicable requirement of the Ohio Credit Services Organization Act (R.C. Chapter 4712) and debt adjusting laws (R.C. Chapter 4710).

No amendments are being proposed to the rule.

- 8. Does the rule incorporate material by reference? No**
- 9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

- 10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

- 11. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

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Not Applicable.

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not Applicable.

- 13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

- 15. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable.

### **III. Common Sense Initiative (CSI) Questions**

- 16. Was this rule filed with the Common Sense Initiative Office? No**

- 17. Does this rule have an adverse impact on business? No**

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**

At first glance, the rule appears to impose a registration requirement. However, the requirement is merely to register with the Ohio Secretary of State as any other business does. It is NOT a separate registration requirement to engage in or operate a line of business.

- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No**

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**