



March 8, 2019

Anna Firestone, Esq.
Assistant Division Counsel
Ohio Department of Commerce
Division of Financial Institutions Consumer Finance
77 South High Street, 21st Floor
Columbus, Ohio 43215

Re: Proposed Revisions to Rules Under the Ohio General Loan Law

Dear Ms. Firestone,

On behalf of the American Financial Services Association (“AFSA”),¹ thank you for the opportunity to provide comments on the Division of Financial Institutions’ (“DFI”) proposed revisions to rules under the Ohio General Loan Law (“GLL”). As drafted, we have serious concerns with the proposed revisions and the substantial limitations the revisions would impose on licensees. These significant revisions to the rules are inconsistent with the statute and the longstanding regulatory guidance covering loans in the state.

Many AFSA members hold certificates of registration under the GLL and operate in compliance with the Ohio statute and regulations. These members have specific concerns relating to certain revisions to the Definitions and related provisions of the rules.

Proposed revisions to Rule 1301:8-3-03(C) revise the definition of “condition of the loan” to eliminate the longstanding definition and add ambiguous new language and an “example” that adds a prohibition on “financing” other transactions (under the guise of a revised definition).

The GLL provides that the limitations on authorized fees does not limit the rights of registrants to engage in other transactions with borrowers, provided the transactions are not a condition of the loan (Ohio Rev. Code § 1321.57(H)(2)). The current rule provides that the term “condition of the loan” means “that approval or denial of a borrower's loan application shall not be based on the borrower's acceptance of any other transactions made in conjunction with the loan.” This is a clear-cut standard for determining whether a transaction is a condition of the loan. There is no statutory basis for the revisions and it is inconsistent with the Division’s and the industry’s long standing interpretation of the statute and reliance on the existing rule.

Proposed Rule 1301:8-3-03(H) adds a definition of “secured loan” by adding a cross reference to the Uniform Commercial Code. The result of the new definition would be to restrict the ability of a

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

registrant to charge loan origination fees on certain types of permitted secured loans. This is a limitation directly contradictory to the statute.

Proposed Rule 1301:8-3-03(I) adds a definition of “using proceeds in whole or in part” as found in the definition of “refinancing” in the statute. This new definition adds additional items that expand the rule definition beyond the definition enacted by the Ohio General Assembly. The statutory definition of refinancing in Section 1321.51 is not ambiguous and has been relied upon by the Division and the industry. Such a change in the law is not appropriate as part of the rule making process and is directly contrary to the clear statutory language.

Proposed Rule 1301:8-3-07(I) changes a requirement formerly applicable only 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. There is no statutory basis for this rule.

All of these additions to the existing GLL Rules are expansions of authority by the Division that are not authorized by the governing statute and could be considered to be usurp legislative authority by rule making.

Thank you in advance for your consideration of our comments. If you have any questions or would like to discuss this further, please do not hesitate to contact me at 202-469-3181 or mkownacki@afsamail.org.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Kownacki". The signature is written in a cursive, flowing style.

Matthew Kownacki
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