



Ohio Revised Code

Section 1322.45 Additional duties of registrants and licensees; recovery of damages by buyer.

Effective: March 23, 2018

Legislation: House Bill 199 - 132nd General Assembly

(A) A registrant, a licensee, and any person required to be registered or licensed under this chapter, in addition to duties imposed by other statutes or common law, shall do all of the following:

- (1) Safeguard and account for any money handled for the buyer;
- (2) Follow reasonable and lawful instructions from the buyer;
- (3) Act with reasonable skill, care, and diligence;
- (4) Act in good faith and with fair dealing in any transaction, practice, or course of business in connection with the brokering or originating of any residential mortgage loan;
- (5) Make reasonable efforts to secure a residential mortgage loan, from lenders with whom the registrant, licensee, or person regularly does business, with rates, charges, and repayment terms that are advantageous to the buyer.

(B) Division (A) of this section shall not apply to wholesale lenders. However, wholesale lenders are subject to all other requirements applicable to mortgage brokers and nonbank mortgage lenders. For purposes of this division, "wholesale lender" means a company that has been issued a certificate of registration and that enters into transactions with buyers exclusively through unaffiliated third-party mortgage brokers.

(C) The duties and standards of care created in this section cannot be waived or modified.

(D)(1) A buyer injured by a failure to comply with this section may bring an action for recovery of damages.



(2) Damages awarded under division (D)(1) of this section shall not be less than all compensation paid directly or indirectly to a mortgage broker from any source, plus reasonable attorney's fees and court costs.

(3) The buyer may be awarded punitive damages.

(E) A buyer injured by a failure to comply with this section is precluded from recovering any damages, plus reasonable attorney's fees and costs, if the buyer has also recovered any damages in a cause of action initiated under section 1322.52 of the Revised Code and the recovery of damages for a failure to comply with this section is based on the same acts or circumstances as the basis for recovery of damages in section 1322.52 of the Revised Code.

(F) This section shall not be interpreted by the superintendent to require a separate account for deposit of buyer funds.