



Ohio Administrative Code

Rule 1301:8-7-32 Loan processors and underwriters.

Effective: September 1, 2024

(A) For purposes of division (AA)(2)(h) of section 1322.01 of the Revised Code, "loan processing or underwriting company" means an entity that performs only clerical or support duties for one or more unaffiliated registrants or qualified exempt entities.

(B) For purposes of division (AA)(2)(h) of section 1322.01 of the Revised Code, "employee" means an individual for whom the loan processing or underwriting company, in addition to providing a wage or salary, pays social security and unemployment taxes, provides workers' compensation coverage, and withholds local, state, and federal income taxes. Nothing herein prohibits a loan processing or underwriting company from entering into an agreement with a professional employer organization as that term is defined in division (D) of section 4125.01 of the Revised Code, provided the loan processing or underwriting company retains all direction and control over its shared employees' performance of clerical or support duties.

(C) A loan processing or underwriting company seeking a letter of exemption pursuant to division (AA)(2)(h) of section 1322.01 of the Revised Code shall be responsible for paying any applicable fees and submitting an application for a letter of exemption via the NMLS for its main office location before engaging in the activities of a loan processor or underwriter for residential mortgage loans involving property in this state.

(D) The application shall be in a form prescribed by the superintendent and shall include all of the following:

(1) The loan processing or underwriting company's business name and state of incorporation or business registration;

(2) The names of the owners, officers, members, or partners having control of the loan processing or underwriting company;



- (3) The names of all licensees employed by the the loan processing or underwriting company;
 - (4) An attestation stating all of the following:
 - (a) All employees who perform clerical or support duties are either licensees or perform only clerical or support duties at the direction of and subject to the supervision and instruction of a licensee employed by the same loan processing or underwriting company.
 - (b) The licensees assign, authorize, and monitor every loan processor or underwriter employee's performance of clerical or support duties.
 - (c) The licensees exercise traditional supervisory responsibilities, including training, mentoring, and evaluation of every loan processor or underwriter employee.
 - (d) The loan processing or underwriting company always performs clerical or support duties for others pursuant to a written contract.
 - (e) No licensee or employee of the loan processing or underwriting company is also a licensee or employee of any entity for whom it performs clerical or support duties.
 - (5) A surety bond for all licensees which may be issued in the same manner as is permitted for registrants;
 - (6) An acknowledgment of understanding that the loan processing or underwriting company is subject to the regulatory authority of the division of financial institutions;
 - (7) Any further reasonable information that the superintendent may require.
- (E) If the superintendent determines that the loan processing or underwriting company fully and honestly completed the application process and otherwise qualifies for exemption, the superintendent shall issue a letter of exemption which shall expire on the thirty-first day of December and may be renewed on or before that date by submitting an application that meets the requirements of paragraph (D) of this rule.



(F) The burden of proving the exemption is on the loan processing or underwriting company.

(G) The loan processing or underwriting company shall keep and maintain records of all residential mortgage loan transactions for the portion of the transaction it conducts in the same manner as is required of registrants, as provided in division (B) of section 1322.34 of the Revised Code and rule 1301:8-7-06 of the Administrative Code.

(H) The superintendent may, in accordance with rule 1301:8-7-13 of the Administrative Code, examine the books and records of the loan processing or underwriting company as often as the superintendent deems necessary for the purpose of substantiating the loan processing or underwriting company's exempt status.

(I) An employee of a loan processing or underwriting company that holds a valid letter of exemption may perform clerical or support duties from any location provided a licensee of the same loan processing or underwriting company maintains adequate supervision of the loan processor's or underwriter's performance, including training, mentoring, and evaluation of the loan processor or underwriter.

(J) An employee of loan processing or underwriting company that holds a valid letter of exemption is exempt from having to obtain a mortgage loan originator license only with respect to the clerical or support duties performed for such loan processing or underwriting company.

(K) An employee of a loan processing or underwriting company shall not also be employed by or associated with any entity for whom the loan processing or underwriting company performs clerical or support duties.

(L) A loan processing or underwriting company performing clerical or support duties shall comply with rules promulgated under 15 U.S.C. 1681w and 15 U.S.C. 6801, including 16 C.F.R. Part 313 and 16 C.F.R. Part 682, as those rules are in effect May 1, 2024.