

STATE OF OHIO
DEPARTMENT OF COMMERCE
Division of Financial Institutions
Consumer Finance

In the matter of:)	Case No. M2007-338
)	
FIDELITY BANC & LENDING, INC.)	Notice of Intent to Deny Renewal Application
5876 Dunham Road)	&
Maple Heights, Ohio 44137)	Notice of Opportunity for a Hearing
)	

JURISDICTION

The Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act, codified in Ohio Revised Code ("R.C.") Chapter 1322. In accordance therewith, the Division is accountable for the registration of mortgage brokers.

RESPONDENT

FIDELITY BANC & LENDING, INC. ("Respondent") is a company that held a certificate of registration to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent's mortgage broker certificate of registration expired on April 30, 2007, and Respondent filed an application to renew its certificate of registration. The renewal application remains pending. Respondent's business address of record is 5876 Dunham Road, Maple Heights, Ohio 44137.

NOTICE OF PROPOSED ACTION

In accordance with sections 1322.04 and 1322.10 of the R.C., and R.C. Chapter 119, the Division intends to DENY Respondent's 2007 renewal application for a mortgage broker certificate of registration.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.10(B), and has found the following:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew an applicant's mortgage broker certificate of registration if the Division finds that the applicant has violated "or failed to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration[.]"
- B. R.C. 1322.04(B)(3) provides that a certificate of registration may be renewed if the Division finds that the applicant meets the conditions set forth in R.C. 1322.04(A)(2) to (10).
- C. R.C. 1322.04(A)(4) requires the applicant to comply with the surety bond requirements of R.C. 1322.05.
- D. R.C. 1322.04(A)(6) requires the applicant to comply with R.C. 1322.01 to 1322.12.
- E. R.C. 1322.052 requires a mortgage broker registrant's operations manager to complete six hours of continuing education each calendar year.

- F. In calendar year 2006, Respondent's operations manager completed only four of the six hours of continuing education required by R.C. 1322.052.
- G. Pursuant to a notice issued on June 1, 2007 from Capitol Indemnity Corporation, Respondent's mortgage broker bond, held pursuant to R.C. 1322.05, was cancelled effective July 1, 2007. Respondent currently does not hold the bond required by R.C. 1322.05.

As a result of the findings listed above, the Division has determined that:

- 1. Because Respondent failed to comply with R.C. 1322.05 and R.C. 1322.052, Respondent does not meet the conditions for renewal outlined in R.C. 1322.04(B)(3); accordingly, the Division has the authority to refuse to renew Respondent's mortgage broker certificate of registration pursuant to R.C. 1322.04(B)(3) and R.C. 1322.10(A)(1)(a).

NOTICE OF OPPORTUNITY FOR A HEARING ON PROPOSED ACTION

Therefore, pursuant to R.C. Chapters 1322 and 119, Respondent is hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to issue an Order denying Respondent's renewal application under the Ohio Mortgage Broker Act.

Respondent is further notified, pursuant to R.C. Chapter 119, that Respondent is entitled to a hearing on this matter. If Respondent desires to request a hearing, the request must be made in writing, and must be received in the offices of the Ohio Division of Financial Institutions within thirty (30) days of the time of the mailing of this Notice. Hearing requests should be addressed: Ohio Division of Financial Institutions, Attn: Anthony D. Siciliano, Consumer Finance General Counsel, 77 South High Street, 21st Floor, Columbus, Ohio 43215-6120.

At the hearing, Respondent may appear in person, by Respondent's attorney, or by such other representative as is permitted to practice before the Agency, or Respondent may present its position, arguments, or contentions in writing, and, at the hearing, may present evidence and examine witnesses appearing for and against Respondent. At the hearing, a corporation must have a representative that is permitted to practice before the Agency, such as an attorney.

If the Ohio Division of Financial Institutions does not receive a written request for a hearing in its offices within thirty (30) days of the time of the mailing of this Notice, the Superintendent will issue an Order denying Respondent's renewal application.

Signed and sealed this 9th day of August 2007.

RICHARD F. KECK

Acting Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce