

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

In the matter of:)	Case No. M2006-9993378
)	
PAYMENT PLANS, INC.)	Notice of Intent to Deny Mortgage Broker Renewal
2741 Transit Road)	&
Elma, NY 14059)	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, and the rules adopted thereunder.

RESPONDENT

PAYMENT PLANS, INC. ("Respondent") holds a mortgage broker certificate of registration issued by the Division. Respondent's mortgage broker certificate of registration expired on April 30, 2006, and Respondent filed an application to renew its certificate of registration. The renewal application remains pending. Its business address of record is 2741 Transit Road, Elma, New York 14059. Its address for service is Richard J. Berthy, 77 West Elmwood Drive, Suite 301, Dayton, Ohio 45459.

NOTICE OF PROPOSED ACTION

In accordance with sections 1322.04 and 1322.10 of the Revised Code and R.C. Chapter 119, the Division intends to DENY Respondent's 2006 renewal application for a mortgage broker certificate of registration.

BASIS FOR PROPOSED ACTION

Pursuant to R.C. 1322.10(B), the Division conducted an investigation of Respondent, and as a result thereof, alleges 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)(2) provides that a mortgage broker certificate of registration may be renewed only if the operations manager "has completed, during the immediately preceding calendar year, at least six hours of continuing education as required under section 1322.052 of the Revised Code."

- C. R.C. 1322.052 requires each person designated to act as the operations manager of a mortgage broker to complete at least six hours of continuing education every calendar year.
- D. On or about April 28, 2006, Respondent submitted an application for renewal of its mortgage broker certificate of registration with the Division.
- E. Respondent's designated operations manager, John C. Eckis, failed to complete the required 6 hours of continuing education credit for the 2005 calendar year, as required by R.C. 1322.052.
- F. On or about May 19, 2006, the Division sent a letter to Respondent notifying them of the deficiency under R.C. 1322.04(B)(2).
- G. In Settlement Agreement MB# 803314-2004 CE between the Respondent and the Division, Respondent admitted that it failed to comply with the CE requirements of R.C. 1322.052 for the 2004 calendar year. Respondent also admitted that it violated R.C. 1322.04(B)(2) by failing to complete its 2004 CE requirements.

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

- 1. Because Respondent has twice failed to comply with R.C. 1322.04(B)(2), the Division finds Respondent's character and general fitness do not command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act, thereby failing to meet the prerequisite for certificate of registration renewal found in R.C. 1322.04(B)(3). See R.C. 1322.04(A)(10) & (B)(3).
- 2. Because Respondent failed to comply with R.C. 1322.04(B)(2) and did not meet the conditions outlined in R.C. 1322.04(A)(10) and (B)(3), the Division has the authority to refuse to renew Respondent's mortgage broker certificate of registration.

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 application for renewal of its mortgage broker certificate of registration.

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: Carrie V. Moore, Consumer Finance Associate Counsel, 77 South High Street, 21st Floor, Columbus, Ohio 43215-6120.

At the hearing, Respondent may appear 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.

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 revoking Respondent's mortgage broker certificate of registration.

Signed and sealed this 16th day of March 2007.

RICHARD F. KECK

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