

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

In the matter of:)	Case No. 2009-878
)	
KATHLEEN M. BERNICKEN)	Notice of Intent to Deny Loan Officer License Renewal
6384 Claypool Court)	&
Columbus, OH 43213)	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 licensing of individuals as residential mortgage loan officers.

RESPONDENT

KATHLEEN M. BERNICKEN ("Respondent") is an individual that held a loan officer license issued by the Division to originate residential mortgage loans pursuant to R.C. Chapter 1322. Respondent's loan officer license expired on April 30, 2009, and Respondent filed an application to renew her license; that renewal application remains pending. Respondent has no employer of record.

NOTICE OF PROPOSED ACTION

In accordance with R.C. sections 1322.041 and 1322.10 and R.C. Chapter 119, the Division intends to DENY Respondent's loan officer license renewal application.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.031(B) and 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 a loan officer license if the Division finds that the licensee has violated "or fail[ed] 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[.]"
- B. Pursuant to R.C. 1322.041(C)(1), subject to division (C)(2), "if a [loan officer] license renewal application or renewal fee is received by the superintendent after the thirtieth day of April, the license shall not be considered renewed, and the applicant shall cease activity as a loan officer."
- C. R.C. 1322.041(C)(2) provides that division (C)(1) shall not apply if the renewal applicant, no later than the thirty-first day of May, submits the renewal application and fee and a one-hundred dollar (\$100.00) penalty to the superintendent.

- D. Respondent filed his renewal application with the Division on May 1, 2009. Respondent did not submit a one-hundred dollar (\$100.00) penalty to the Division.
- E. In letters dated June 25, 2009 and July 20, 2009, the Division informed Respondent that it had not received the one-hundred dollar (\$100.00) late renewal penalty.
- F. As of the date of this Notice, Respondent has not submitted the one-hundred dollar (\$100.00) late renewal penalty to the Division.

As a result of the findings listed above, the superintendent is authorized by R.C. 1322.10(A)(1)(a) to deny Respondent's loan officer license renewal application for failure to timely file the late renewal penalty as required by R.C. 1322.041(C)(1).

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 loan officer license 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: Lori A. Massey, Consumer Finance Attorney Examiner, 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.

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 loan officer license renewal application.

Signed and sealed this 2nd day of November, 2009.

LEIGH A. WILLIS

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