



Rule Summary for Short-Term Loan Act Five-Year Review

What follows is a summary of proposed changes to the Short-Term Loan Act Rules, Ohio Administrative Code Chapter 1301:8-11.

1301:8-11-01 Definitions and general provisions:

This rule defines terms used in the Administrative Code. It is being amended as follows:

- Defines “borrower” to mean “a person with either an active or inactive loan”;
- Defines “payable in substantially equal installments” to mean “payable in installments of substantially equal amounts according to a payment schedule in which the first payment is due no later than one month and fifteen days from the date of origination, with subsequent payments due thereafter at substantially consistent time intervals ranging from weekly to monthly”; and
- Defines the time periods involved in calculating interest or fees as follows:
 - One month equals one-twelfth of a year.
 - Each one-month period ends as described in section 1.45 of the Revised Code.
 - One day equals one three hundred sixty-fifth of one year when calculation is made for a fraction of a month.
 - “Year” has the same meaning as in section 1.44 of the Revised Code.

1301:8-11-02 Recordkeeping requirements: This rule implements recordkeeping requirements for short-term lenders. It specifies the form and content of records and provides that the Division of Financial Institutions may suspend or revoke a license or bring any other authorized administrative enforcement action against a person for failure to maintain records in accordance with R.C. 1321.422.

The rule is being amended to do the following:

- Remove redundant language, e.g. references to the two-year retention period specified by R.C. 1321.422.
- Rephrase and relocate, in a non-substantive manner, certain provisions.
- Replace the loan statement requirement in 1301:8-11-02(A)(2) with a requirement that the information identified be kept in a sortable electronic spreadsheet containing the same information designated in the current rule with the following additions and removals:
 - Whether the borrower or a dependent of the borrower is on active duty in the armed forces of the United States (add);
 - Whether the loan is new or a refinance (add);
 - For a refinanced loan, the prior loan number (add);
 - Frequency of payments (add);
 - Payment due dates (add);

- Contractual rate of interest (add);
- Total scheduled amount of interest charges (add);
- Origination fee (add);
- Total scheduled amount of maintenance fees (add);
- Nonsufficient funds fee, if any (add);
- Check cashing fee, if any (add);
- Loan status, whether active, paid, rescinded, charged-off, non-accrual, or other status (add);
- Most recent date of payment (add);
- Amount of most recent payment (add);
- Check collection charge, if any, that may be levied (remove);
- Types and amount of any credit-related insurance (remove).
- Adds an option that, in addition to loan number, loan agreements and other loan documents signed by the obligors may be identified by account number.
- Removes the requirement to maintain an alphabetical index of all borrowers, co-makers, guarantors, and other obligors identified by account number with respect to all persons obligated for interest in excess of the current usury rate.
- Adds a requirement that the record of loans in litigation be maintained as a sortable electronic spreadsheet containing the same information designated in the current rule with the following additions and removals:
 - Account or loan number (account number added; current law only allows loan number);
 - Principal borrower's residential address (add);
 - Court or jurisdiction in which the litigation was filed (add);
 - Case number (add);
 - Status of litigation, whether active, settled, dismissed, final judgment entered, or other status (add);
 - All original litigation records and documents, including pleadings, court orders, judgments, and documentation of all court costs paid by the borrower to or through the licensee, or copies thereof shall be maintained in the file of original papers (remove);
 - In cases of garnishment or attachment, all notices served on employers or copies thereof and the amounts collected shall be maintained in the file of original loan papers (remove);
 - A credit life claim record shall be maintained for all loans upon which a credit life claim has been paid by the insurer. The credit life claims record shall be maintained for at least two years after the final entry has been made on the loan, be kept current, and include certain specified information (remove);

- Histories of nonpublished indices used to establish interest rates for variable rate loans shall be maintained for two years from date of usage, and shall be available for review by the division of financial institutions (remove).
- Remove the requirement that a licensee segregate loan records from the records of any other business.

1301:8-11-03 Advertising: This rule prohibits false, misleading, or deceptive advertising. It requires a licensee to maintain a records file of all advertising for two years from the date disseminated. Lastly, it requires every advertisement to identify the licensee's name, address, and license number.

The rule is being amended to remove the prohibition on false, misleading, or deceptive advertising, as it is redundant of R.C. 1321.41(N). It is also being amended to remove the requirement to maintain a record of all advertising.

1301:8-11-04 Licensing: This rule prohibits a licensee from doing business under any other name than that on its license. It also specifies the procedure a licensee must use to change its address.

It is being amended to remove the provision requiring a new license be obtained prior to conducting business at the new location, and to replace the word "file" with "pay" re the license application fee.

1301:8-11-05 Short-term loan license renewal application; issuance of renewal license; expiration: This rule implements a process to renew a short-term lender license.

It is being amended to specify that a renewal application must be received by December 31 and to allow a licensee to continue to act as a licensee while the renewal application is pending.

1301:8-11-06 Surety bond: This rule requires an applicant for a short-term lender license to continuously maintain a corporate surety bond that conforms to the requirements set forth in R.C. 1321.37(D). It specifies what happens in case of a lapse in coverage or reduction in the penal sum. It also states that the liability of the surety shall not be affected by misrepresentation or other act on the part of the licensee or the licensee's insolvency or bankruptcy, and that the liability shall be in effect for at least two years after the bond is terminated or canceled. Lastly, it states that the bond shall not be canceled except upon thirty days' notice to the Superintendent.

The rule is being amended to streamline wording and remove a redundant reference to compliance with R.C. 1321.37(D).