

Consumer FAQs

Important: questions and answers provided by the Arkansas Securities Department is general information only and should not be used or substituted for professional legal advice from a licensed attorney.

Q. What laws generally govern mortgage activity in Arkansas?

A. The Fair Mortgage Lending Act, § 23-39-501 et al.

Q. Where may I obtain a copy of the relevant statutes and rules?

A. These documents are available electronically on the Department's website on the home page.

Q. I think that my mortgage company may be exempt from the Fair Mortgage Lending Act, how do I make sure?

A. You can check to see who is exempt from the Fair Mortgage Lending Act by referring to Ark. Code Ann. § 23-39-502(6) (B).

Q. Who should I contact if the Arkansas Securities Department does not regulate my Mortgage Company?

A. Check out "Other Industry Links" on the bar to the left on the home page. These links will assist you in determining who regulates your mortgage company.

Q. Does the Arkansas Securities Department regulate commercial lenders?

A. No. Commercial transactions are not regulated by the Arkansas Securities Department. You can file a complaint with the Better Business Bureau.

Q. What functions does your Department perform with respect to the mortgage industry?

A. The Arkansas Securities department works to insure that the citizens of Arkansas have access to well-managed and properly operated mortgage providers. The Department supervises those who are licensed (or should be licensed) to do business in the residential mortgage industry in Arkansas. Mortgage Broker//Mortgage Bankers//Mortgage Servicers as well as Loan Officers for the Mortgage Company must apply to the Department and meet certain licensing standards before they may legally offer their services to the public. The Securities Department has the authority to levy monetary and civil sanctions against a person or company if they are discovered to be operating in Arkansas without being properly licensed. The Department conducts routine exams on the licensee's operations to monitor operating standards to ensure compliance with the Arkansas Fair Mortgage Lending Act. The Department will also investigate complaints and alleged violations that are brought by consumers.

Q. How do I file a complaint with the Arkansas Securities Department?

A. An Arkansas resident may file a complaint simply by writing a letter to the Department at 201 East Markham Street, Suite 300, Little Rock, AR 72201-1692. Attach any relevant documentation that the Department may need to fully research your complaint. The Department must have the complaint in writing in order to investigate the complaint due to the potentially confidential information that may be requested from your mortgage company or from the mortgage broker//mortgage banker that originated your loan.

Q. What relevant documentation do you need?

A. Your financial documents are important to the investigation of your complaint. Please provide any legible copies of documents that support your claim. Especially important are any documents that relate to any disclosure or written statements you may have received. Please only send copies. If the originals are needed, the Department will specifically request these from you.

Q. What information should I include in my complaint?

A. You should provide any clarifying facts. The Who, What, When, Where, Why and How of the transaction. And most important – the DATES. Who did what? Where did it happen? What did you receive from whom? The more specific the information received, the better the chance that the Department will be able to form an understanding of what occurred in your transaction.

Q. Can you find an attorney to represent me?

A. No. Arkansas Securities Department cannot recommend individual attorneys. You should talk with your friends and family or contact the Arkansas Bar Association.

Q. How do I check to see if my loan officer is licensed?

A. You can check to see if a loan officer, Mortgage Broker, Mortgage Banker or Mortgage Services is licensed in Arkansas by clicking on “License Lookup” on the home page or by calling the Department.

Q. My lender has raised my payments even though I have a fixed rate mortgage. Can they do that?

A. You should check your loan note to determine what circumstances your lender can make changes to your payment. Many times the change in payment amount comes from the escrow for your taxes and insurance, your yearly homeowner’s insurance premium or property tax could have been increased. Check with your lender to determine the specific reason for the increase.

Q. I have received notice that my homeowner’s insurance was not paid this year, but my mortgage company pays it from my escrow account. Do I need to do anything?

A. Yes. Even though your mortgage company is responsible for paying the insurance premium, you, the homeowner, are ultimately responsible for making sure that you have homeowner's insurance. If your insurance gets cancelled or your policy expires, your lender can purchase insurance on the property on your behalf. This is called "Forced-Placed Insurance" and the premiums are usually much higher than what you would normally pay. You should contact your mortgage company immediately regarding this situation.

Q. What is a right of rescission and when does it apply?

A. A right to rescission is an option given to borrower to cancel a loan contract secured by real estate within 3 days of closing. The institution must be notified in writing of your intention to cancel.

Q. I am going to apply for a mortgage, what documents should I receive after I fill out the application?

A. Within 3 days of the initial application the loan officer, in conjunction with the Mortgage Broker or Mortgage Banker by whom he is employed, is required to send applicants certain documents. They are required to provide a "Good Faith Estimate" or GFE of the settlement charges, a disclosure showing whether the lender is planning to service the mortgage or transfer it to another entity, and a copy of your loan application generated by the loan officer.

Q. At closing there are so many documents! How do I know that all the charges were and where my money went?

A. A document called the HUD-1 shows the actual charges imposed on borrowers and sellers in connection with the mortgage.

Q. How do I know if the interest rate on my mortgage is too high? From what I understand, there is no rate limit imposed by Arkansas statute.

A. The Arkansas Securities Department does not attempt to regulate the interest rates charged on loans unless a court finds that the loan is usurious or it appears that the rate charged or the loan violates either federal or state law or rule. See Ark. Code Ann §§ 23-39-514(a)(2)(G) and 23-39-513(11). I suggest that you contact the Arkansas Attorney General's office or a private attorney for more information on usury provisions.

Q. I want to refinance my loan; however, I was told that the Fair Mortgage Lending Act specifies that a lender cannot refinance a loan that has not yet been seasoned for 12 months unless tangible net benefits to the borrower can be demonstrated. How can I find out what those benefits are?

A. There are no definite tests as to what constitutes a tangible net benefit due to the fact-intensive nature of the inquiry and the numerous variables that may be involved. If there is any question, the refinance should probably not occur.

Q. What is PMI?

A. PMI stands for Purchase Money Insurance. PMI is usually required when you purchase a loan with less than a 20% down payment. This is a type of guarantee that helps protect lenders against the costs of foreclosure. In effect, mortgage insurance pays the lender a certain percentage of your original purchase price to cover a lender's loss in the unfortunate event of foreclosure.