

Ohio Revised Code Sections 1319.07 to 1319.09

1319.07 Definitions for RC sections 1319.07 to 1319.09.

As used in sections 1319.07 to [1319.09](#) of the Revised Code:

(A) "Nonrecourse carveout" means a specific exemption, if any, to the nonrecourse provisions set forth in the loan documents for a nonrecourse loan that has the effect of creating, if specified events occur, personal liability of the borrower or guarantor or other surety of the loan for all or some amounts owed to the lender.

(B) "Nonrecourse loan" means a commercial loan secured by a mortgage on real property located in this state and evidenced by loan documents that meet any of the following:

(1) Provide that the lender will not enforce the liability or obligation of the borrower by an action or proceeding in which a money judgment is sought against the borrower;

(2) Provide that any judgment in any action or proceeding on the loan is enforceable against the borrower only to the extent of the borrower's interest in the mortgaged property and other collateral security given for the loan;

(3) Provide that the lender will not seek a deficiency judgment against the borrower;

(4) Provide that there is no recourse against the borrower personally for the loan;

(5) Include any combination of divisions (B)(1) to (4) of this section or any other provisions to the effect that the loan is without personal liability to the borrower beyond the borrower's interest in the mortgaged property and other collateral security given for the loan.

(C) "Nonrecourse provisions" means one or more of the provisions described in divisions (B)(1) to (5) of this section, whether or not the loan is subject to a nonrecourse carveout or carveouts.

(D) "Postclosing solvency covenant" means any provision of the loan documents for a nonrecourse loan, whether expressed as a covenant, representation, warranty, or default, that relates solely to the solvency of the borrower, including, without limitation, a provision requiring that the borrower maintain adequate capital or have the ability to pay the borrower's debts, with respect to any period of time after the date the loan is initially funded.

"Postclosing solvency covenant" does not include a covenant not to file a voluntary bankruptcy or other voluntary insolvency proceeding or not to collude in an involuntary proceeding.

Added by 129th General Assembly File No.201, HB 479, §1, eff. 3/27/2013.

1319.08 Use of postclosing solvency covenant.

(A) A postclosing solvency covenant shall not be used, directly or indirectly, as a nonrecourse carveout or as the basis for any claim or action against a borrower or any guarantor or other surety on a nonrecourse loan.

(B) A provision in the documents for a nonrecourse loan that does not comply with division (A) of this section is invalid and unenforceable.

Added by 129th General Assembly File No.201, HB 479, §1, eff. 3/27/2013.

1319.09 Loans without nonrecourse loan provisions.

Section [1319.08](#) of the Revised Code does not prohibit a loan that is secured by a mortgage on real property located in this state from being fully recourse to the borrower or guarantor, including, but not limited to, as a result of a postclosing solvency covenant, if the loan documents for that loan do not contain nonrecourse loan provisions.

Added by 129th General Assembly File No.201, HB 479, §1, eff. 3/27/2013.

