

# McGLINCHEY STAFFORD PLLC

**To:** Clients and Friends  
**From:** McGlinchey Stafford PLLC  
**Date:** June 26, 2006  
**Re:** **Ohio's New Anti-Predatory Lending Law: An Analysis of SB 185**

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## Introduction

After much debate and controversy, the Ohio General Assembly has passed, and Governor Taft has signed, a new and comprehensive anti-predatory lending bill, SB 185. SB 185 takes effect on January 1, 2007. While media reports have focused on SB 185's revisions to Ohio's unfair and deceptive acts and practices act, the Consumer Sales Practices Act, SB 185 substantially revises most of the law regulating consumer real estate lending in Ohio.

This article describes the changes that SB 185 makes to several areas of law in detail. To summarize briefly, those changes include:

- Creating a new mechanism for criminal background checks for real estate lending professionals
- Revising the Second Mortgage Loan Act to reduce the amount of permitted prepayment penalties and to enhance enforcement procedures
- Substantially revising both the procedural and substantive provisions of the Mortgage Broker Registration Act, to specifically prohibit certain lending practices, to require certain new disclosures and to enhance enforcement authority
- Revising the Interest Act to reduce the maximum permitted prepayment penalty in certain circumstances
- Substantially revising the Consumer Sales Practices Act to create new duties and liabilities for mortgage lenders other than depository institutions
- Substantially revising the High-Cost Home Loan Act by expanding its scope and by adding new consumer protections and enhanced enforcement provisions
- Revising statutes regulating title insurance agents and appraisers to add new consumer protections

Ohio has had a High-Cost Home Loan Act, whose substantive provisions are substantially similar to federal law, for several years. SB 185, however, moves Ohio law away from alignment with federal law, greatly increases the compliance burden on lenders generally and subjects mortgage lenders who are not depository institutions to a more stringent regulatory scheme than that applicable to depository institutions. One thing that SB 185 did not do is repeal Ohio Rev. Code §1.63, which was added by the original High-Cost Home Loan Act. That section preempts all local laws that purport to regulate predatory lending. The Ohio Supreme Court is still considering whether that statute violates the home-rule amendment to the Ohio Constitution. If the Ohio Supreme Court were to declare that statute unconstitutional, lenders would also face the possibility of having to comply with existing, as well as possible future, local ordinances regulating lending practices.

### **Criminal Reporting Background Checks**

Ohio Rev. Code §109.572 generally sets forth the time and manner in which the superintendent of the Ohio Bureau of Criminal Identification and Investigation must conduct criminal background checks in connection with certain licensed professions. SB 185 amends Ohio Rev. Code §109.572(A)(11) to authorize investigations on individuals subject to the following Ohio Revised Code Sections:

- § 1322.03 – Applicants for a certificate of registration as a mortgage broker
- § 1322.031 – Applicants for a license as a loan officer
- § 4763.05 – Applicants for an initial:
  - (1) state-certified general real estate appraiser certificate;
  - (2) state-certified residential real estate appraiser certificate;
  - (3) state-licensed residential real estate appraiser license; or
  - (4) state-registered real estate appraiser assistant.

The criminal investigations are intended to disclose whether the person investigated has ever been convicted of or pleaded guilty to any of various Ohio criminal offenses (primarily those involving dishonest conduct, money, securities or drug trafficking), or violations of any other state’s laws or federal laws that are substantially similar to Ohio’s.

### **The Second Mortgage Loan Act**

The Second Mortgage Loan Act, Ohio Rev. Code §§1321.51 through 1321.60 (“SMLA”), is, despite its name, Ohio’s general-purpose licensed lender act as it permits registrants to make first mortgage loan, second mortgage loans and other types of direct consumer loans. Ohio SB 185 amends the SMLA by modifying the prepayment penalty permitted for real estate secured loans under §1321.57(G)(2). The prior version of the SMLA allowed two types of prepayment penalties. The first, under §1321.57(G)(1), is a penalty of 1% of the original principal amount of the loan for prepayments made in the first five years of the loan term. The alternative prepayment penalty, under §1321.57(G)(2) allows SMLA registrants to charge a penalty for prepayments made within the first three years of a loan. The permitted penalty is up to 3% of the original principal amount of the loan if the loan was prepaid in full within the first year following

execution of the loan contract, up to 2% for full prepayments in the second year of the loan, and up to 1% for full prepayments in the third year of the loan.

Ohio SB 185 revised SMLA §1321.57(G)(2). That statute now allows such a penalty only within the first two years of the loan. The maximum prepayment penalty is 2% of the original principal amount if paid in full within the first year, and 1% of the original principal amount if the loan is paid within the second year.

Ohio SB 185 also amends the Second Mortgage Loan Act by adding new § 1321.541. This new section provides that the attorney general and the prosecuting attorney of the relevant county each have standing to assert certain claims in certain circumstances:

1. **Injunctive Relief.** Under new SMLA §1321.541(A) the Ohio attorney general may bring an injunctive action for violations of the SMLA, and the local prosecuting attorney may also do so if, under certain circumstances, the attorney general refuses.
2. **Criminal Actions.** Under new SMLA §§ 1321.541(B)(1) and (2), the prosecuting attorney may initiate criminal proceedings for violations of the SMLA, and the attorney general may also do so if, under certain circumstances, the local prosecuting attorney refuses to.

### **Mortgage Broker Registration Act**

SB 185 substantially revises the Mortgage Broker Registration Act, Ohio Rev. Code §§ 1322.01 through 1322.99 (“MBA”) to impose new, stricter requirements on mortgage brokers with respect to their training, record retention, and disclosures to borrowers. Likewise, SB 185 enhances borrowers’ rights and potential recovery against brokers who allegedly violate the MBA.

The revised version of the MBA clarifies which businesses and individuals are covered by the MBA. Under amended MBA §1322.02, state-chartered banks, savings banks, S&L’s, credit unions, national banks, and their subsidiaries and affiliates remain exempt from the MBA. The revised statute now defines “affiliate” as an entity that controls, is controlled by, or is under common control with one of the above, and that is subject to examination, supervision or regulation by one of the federal depository institution regulatory agencies.

Under new MBA §1322.03(A)(5), individuals applying for registration as mortgage brokers after January 1, 2007 will be required to complete 24 hours of live classroom instruction that covers state and federal mortgage lending law, the Ohio Consumer Sales Practices Act, the loan application process, the underwriting process, the secondary market, the loan closing process, basic mortgage concepts and terms, and ethics. Loan officers who submit licensing applications on or after January 1, 2007 will be subject to similar education requirements.

SB 185 imposes additional requirements on mortgage brokers during and after the loan application process. Under revised MBA §1322.062(A), the mortgage loan origination disclosure statement must now include a good faith estimate of the brokerage fee, in addition to an explanation of how that fee will be calculated, as is currently the case. Borrowers must also be informed with a specific written warning, in 16 point bold type, if the loan applied for exceeds

90 percent of the rate of the value of the property. The broker is also required to obtain the borrower's signature to acknowledge receipt of the disclosure statement. If the loan is a high-cost home loan under Ohio law, the broker must deliver a copy of the disclosure statement to the lender as well. In addition, the broker must now redisclose any changes to the matters included in the disclosure statement within 24 hours instead of within 3 days as current law provides.

Under new MBA §1322.062(C), a mortgage broker must provide the borrower with a copy of his publicly-available credit score, and any automated valuation model used to determine an appraisal report. New MBA §1322.062(D) will also require the broker to provide a good faith estimate of settlement charges, a statement regarding the nature of the relationship, and other prescribed warnings. The good faith estimate may appear on the federal GFE form, modified to include the required statement and warnings. A detailed escrow disclosure must be provided to the borrower at least one full day before closing under new MBA §1322.063.

New MBA §1322.064 requires the broker to make disclosures regarding specified "material" charges in the loan terms at least 24 hours before closing. These disclosures include, among other items, changes in the type of loan (e.g., fixed versus variable rate); an interest rate change of more than .15 percent, and changes in escrow or private mortgage insurance. This new section will require a refund of any increase in the broker's fee which is not properly disclosed to the buyer, including interest on the excess amount if the broker's fee is financed into the loan.

MBA §1322.07, which sets forth the general prohibitions of the MBA, has been modified to contain two additional prohibitions. Under new subsection (G), a mortgage broker may not knowingly compensate, instruct, induce, coerce or intimidate a licensed or certified appraiser for the purpose of corrupting or improperly influencing the appraiser's independent judgment. Under new subsection (H), a mortgage broker may not verbally promise the borrower to refinance a loan in the future on more favorable terms.

New MBA §1322.074 prohibits a mortgage broker or the broker's immediate family from owning or controlling a majority interest in an appraisal company. The only exception to this prohibition is that such ownership held prior to January 1, 2007 may be retained, but not increased or transferred, after that date.

New MBA §1322.075(A) requires that brokers make written disclosures of any relationships with settlement agents, title companies or appraisers to whom they refer the buyer. The new disclosures must describe the business relationship between the broker and the other party, the estimated charge for the settlement services and must include a required notice. In addition, mortgage brokers will not be permitted to refer buyers to appraisal companies in which the broker has an ownership or investment interest.

Finally, without formally imposing a "fiduciary duty", new MBA §1322.081 will impose specific duties of care on the broker. These duties of care include a duty to act in good faith and fair dealing, to act with reasonable skill, care and diligence and to make "reasonable efforts" in securing the loan, including "rates, charges and repayment terms that are advantageous to the borrower." Wholesale lenders, defined as mortgage broker registrants that enter into transactions with buyers exclusively through unaffiliated third party mortgage brokers, are specifically exempted from these duties.

Buyers who have allegedly been injured by a violation of the duty of care (MBA §1322.075(A)) may bring an action for damages (which at a minimum is the amount of the broker fee), including punitive damages and attorneys' fees. However, the buyer may not recover duplicate damages under MBA §1322.11 if the claims arise from the same conduct. SB 185 also enables the Ohio Superintendent of Financial Institutions to suspend (without a hearing) the registration certificate of a covered individual who has failed to fulfill the continuing education requirements or who has been convicted of or pled guilty to a criminal violation of the MBA. In addition, the Ohio attorney general and the prosecuting attorney in the county where a violation was committed have the right to enjoin violations of the MBA, and may also bring criminal proceedings for violations of the MBA.

### **Prepayment Penalties**

SB 185 modifies the allowable prepayment penalty terms in Ohio by amending Ohio Rev. Code § 1343.011(C), which is part of the Ohio Interest Act. The statute, which applies to all lenders making residential mortgage loans, retains the general rule that permits a prepayment penalty of 1% of the original principal amount of the loan for prepayments occurring within five years of executing the loan documents. There is also now an exception to that rule. New §1343.011(2)(a) now provides that no prepayment penalty may be charged at all for repaying or refinancing any loan if:

1. The loan amount is less than \$75,000;
2. The loan was arranged by a mortgage broker, loan officer or nonbank mortgage lender; and
3. The loan is secured by a first lien mortgage on the borrower's property.

Ohio Rev. Code §1343.011(2)(b) provides for the threshold amount of \$75,000 to be adjusted annually on the first day of each year based upon a specified index.

### **Consumer Practices Sales Act**

The revisions to the Consumer Practices Act, Ohio Revised Code §1345.01 through 1345.13, ("CSPA") are the centerpiece of SB 185. Under the definitional cross references included in prior law, the CPSA did not apply to depository institutions or to "dealers in intangibles," which included mortgage lenders and brokers. SB 185 does not repeal the general exemption from the CSPA for dealers in intangibles, but revises CSPA §1345.01(A) to make the CSPA applicable to "transactions in connection with residential mortgages between loan officers, mortgage brokers, or non-bank mortgage lenders and their customers." Under CPSA §1345.01(C), which defines a supplier for purposes of the CSPA, loan officers, mortgage brokers, or non-bank lenders are now deemed to be suppliers subject to the CSPA. However, the definition of supplier specifically does not include an assignee or purchaser of the loan for value unless the violation was committed by the assignee or purchaser or the assignee or purchaser is affiliated by common control with the seller of the loan at the time of such assignment or purchase. The result of these revisions is that depository institutions remain completely exempt from the CSPA, as are dealers in intangibles who are not engaged in residential mortgage transactions, but all mortgage bankers and brokers who are not depository institutions are subject to the CSPA. To reiterate, assignees

of residential mortgage transaction suppliers will be exempt from the CSPA in most circumstances.

In addition to bringing mortgage bankers and brokers into the scope of the CSPA, SB 185 adds to the CSPA a list of prohibited acts. First, CSPA §1345.02(F) adds (1) knowingly failing to provide disclosures required under state and federal law; and (2) knowingly providing a disclosure that includes a material representation in connection with a residential mortgage by a supplier to the current definition of deceptive acts. In addition, new CSPA §1345.031 creates a general prohibition on a supplier committing an unconscionable act or practice with respect to a residential mortgage transaction, and goes on to list sixteen specific prohibited, unconscionable acts. While the statute is unclear whether the sixteen stated acts or practices is exhaustive or merely illustrative, the listed acts and practices cover most acts and practices commonly cited as predatory in nature. The listed practices are:

1. providing for an interest rate after default than is higher than the interest rate before default, excluding statutory rates of interest for judgments applicable to the mortgage loan and rate changes in a variable loan transaction;
2. providing or brokering loans which are based predominately on the collateral's value without regard to the consumer's ability to repay;
3. making a loan when the creditor has the right to demand repayment of the outstanding balance in advance of the maturity date unless the creditor does so in good faith;
4. replacing, refinancing, or consolidating a zero interest rate or a low interest rate loan made by a governmental and non-profit lender with another loan unless the holder of the loan consents in writing and the consumer presents certification from a non-profit organization approved by HUD or the Ohio Superintendent of Financial Institutions that the consumer received counseling on the loan;
5. instructing the consumer to ignore the supplier's written information;
6. recommending or encouraging a consumer to default on a mortgage or any consumer transaction or revolving credit loan agreement;
7. charging a late fee more than once with respect to a single late payment;
8. failing to disclose to the consumer that the consumer is not required to complete the transaction;
9. arranging for a loan under which more than two periodic payments are consolidated and paid in advance from the loan proceeds;
10. knowingly attempting to influence or corrupt the independent judgment of an appraiser;
11. financing credit, life, or disability insurance, except for insurance premiums calculated and paid on a monthly basis;

12. knowingly engaging in the act of flipping, which is defined as refinancing a mortgage loan when the new loan does not result in a reasonable, tangible net benefit to the consumer considering all of the circumstances of both the new and the old loans;
13. knowingly taking advantage of the inability of the consumer to reasonably protect the consumer's interest because of the consumer's known physical or mental infirmities or illiteracy;
14. entering into a transaction knowing there was no reasonable probability of payment by the consumer;
15. attempting to enforce a prepayment penalty not authorized by Ohio Rev. Code §1343.011(see above for details); and
16. engaging in act deemed unconscionable by rules established by the attorney general.

In addition, SB 185 adds a new subsection (C)(1) to CSPA §1345.031. That provision states that unconscionable arbitration clauses, attorneys fees provisions, or liquidated damages clauses are unenforceable, but does not also provide any guidance on what factors would render an arbitration clause unenforceable.

Finally, CSPA §1345.05 directs the attorney general to publish rules and interpretations of the new provisions of the CSPA, as well as an informational document that describes unfair, deceptive or unconscionable acts and practices that could occur in connection with residential mortgage transactions. The informational document will be posted on the attorney general's website and must be distributed to consumers who apply for a mortgage loan. The lender, mortgage broker or loan officer must retain an acknowledgement of receipt of the informational document by the consumer.

Under revised CSPA §1345.09, a consumer is entitled to recover damages, may seek to rescind the transaction under certain circumstances, and may recover three times the amount of his actual damages or \$200.00, whichever is greater, for a violation of an act or practice specifically declared to be deceptive or unconscionable under CSPA §1345.05. The consumer may also pursue a class action. Rescission must be sought within a reasonable time, is available only in an individual action, and must occur for a reason set forth in the federal Truth-in-Lending Act and within the time limits set forth therein. A consumer may also seek a declaratory judgment, or an injunction. The prevailing party may recover reasonable attorneys fees under some circumstances. The consumer may recover attorneys' fees if the supplier has knowingly committed an act or practice that violates the CSPA. If the consumer files a groundless action, maintained in bad faith, the supplier may recover attorneys' fees.

SB 185 also enhances the enforcement provisions of the CSPA. Under CSPA §1345.07, the attorney general may bring an action to obtain a declaratory judgment that an act or practice violates CSPA §§1345.02, 1345.03, or 1345.031, may seek a temporary restraining order, preliminary injunction, or permanent injunction and a penalty of not more than \$5,000.00 for each day of violation of such an injunction, and may bring a class action on behalf of consumers seeking damages. If the attorney general brings such an action, the court may appoint a receiver,

sequester assets, strike or limit unconscionable clauses, or grant other appropriate relief. The court may assess the expenses of a referee or a receiver against the supplier. For the same type of violations, the court may impose a civil penalty of not more than \$25,000.00. There is a two-year statute of limitation on actions by the attorney general.

### **High-Cost Home Loan Law**

Before the passage of SB 185, Ohio had a high-cost home loan law whose scope and substantive provisions were virtually identical to the federal Home Owner Equity Protection Act, Ohio Rev. Code §§1349.25 to 1349.37. SB 185 changes Ohio law so that it both has a broader scope than the federal law and has more stringent substantive provisions. In reviewing the following, please note that the Ohio high-cost home loan law, with one exception noted below, applies equally to all lenders.

SB 185 amends Ohio Rev. Code §1349.25 to now include home equity lines of credit within the definition of covered loans, if they meet the annual percentage rate or points and fees thresholds. While SB 185 did not change the percentage rate threshold (which remains identical to that set by federal law), it does create a new points and fees threshold. The statute applies to a loan secured by the borrower's principal dwelling, if the total loan amount is \$25,000 or more, if the total points and fees payable by the consumer before or at closing exceed 5% of the total loan amount. If the total loan amount is less than \$25,000, the loan is subject to the Ohio high-cost home loan statute if the total points and fees payable by the consumer before or at closing exceed 8% of the total loan amount. The statute does not apply in any circumstances to a purchase money loan or a reverse mortgage.

To apply this threshold, amended Ohio Rev. Code §1349.25 contains several new definitions. First, the statute incorporates the federal definition of points and fees. Second, the statute clarifies the definition of total loan amount. In the case of closed-end loans, total loan amount means the principal amount of the loan minus the points and fees that are included in the principal amount; for open-end loans, total loan amount is the credit limit on the line of credit.

SB 185 adds a new practice that is prohibited with respect to covered loans to the list of prohibited practices in Ohio Rev. Code §1349.27. New subsection (K) states that a creditor may not make a covered loan that will result in the consumer's total monthly debt-to-income ratio, including payments on the covered loan, exceeding 50%, as verified by the consumer's credit application, financial statement, credit report, financial information provided by or on behalf of the consumer, or by any other reasonable means. There is an exception to this limitation, however. A creditor can make a covered loan with a higher debt-to-income ratio if the consumer submits verification that the consumer has received counseling from a state-approved counseling service and a signed disclosure that acknowledges the risk of entering into such a loan. New Ohio Rev. Code §1349.271 directs the Ohio Superintendent of Financial Institutions to adopt rules that establish criteria for qualifying counseling services, but also provides that any not-for-profit counseling service approved by a federal agency is deemed to meet state qualification.

SB 185 also provides for new enforcement powers for violations of the Ohio high-cost home loan statute. Amended Ohio Rev. Code §1349.31 (B) now authorizes the Superintendent of Financial Institutions to directly seek an injunction for violations of the statute. In addition, the attorney general and, in some circumstances, the county prosecutor may directly bring

enforcement actions against mortgage brokers, loan officers and non-bank lenders (all as defined in Ohio Rev. Code §1345.01) for statutory violations.

Finally, new Ohio Rev. Code §1349.41 states that a non-bank mortgage lender may not engage in a transaction, practice, or course of business that is not in good faith or fair dealing, or that operates a fraud upon any person in connection with the attempted or actual making, purchase or sale of any mortgage loan. Noncompliance with this provision can result in the consumer recovering from the lender all compensation that has been directly or indirectly paid to the lender, plus attorney's fees and court costs. Note that this provision does not apply to depository institutions or their affiliates, loan servicers or assignees generally.

In addition to these substantive provisions, SB 185 adds several new sections designed to raise public awareness regarding lending practices. First, new Ohio Rev. Code §1349.43 directs the Ohio Department of Commerce to establish an internet database of enforcement actions taken against non-bank lenders and mortgage brokers. Second, Ohio Rev. Code §1349.44 directs the Superintendent of Financial Institutions to report semiannually to the governor and legislature with respect to enforcement actions and consumer outreach and education efforts. New Ohio Rev. Code §1349.71 creates a new Consumer Finance Education Board that will consist of government, industry and consumer advocate representatives. New Ohio Rev. Code §1349.72 authorizes the board to develop and coordinate financial literacy, foreclosure prevention and credit counseling programs. The board is also directed to develop a special pilot financial literacy and counseling program for use in the five counties in the state with the highest foreclosure rates. Mortgage brokers will be required to recommend the program to borrowers whose loans will have origination fees greater than 5%. In addition, mortgage brokers will be required to notify consumers applying for such loans that the loans have attributes that may be predatory.

### **Title Insurance Agents**

SB 185 makes major additions to Ohio's statutes relating to title insurance. Most importantly, title insurance companies and/or agents are now required to provide and/or offer certain insurance coverage for covered real estate transactions.

SB 185 revises Ohio Rev. Code §3953.23 to require insurance coverage for title insurance agents or agencies that handle escrows in real property transactions not involving the issuance of title insurance. Such insurance coverage must provide coverage to parties to the transactions against certain types of mishandling of the escrow funds. The title insurance agent or agency and any subcontractors are also required to maintain an errors and omissions policy to cover the delegation of any agent or agency functions.

SB 185 creates new Ohio Rev. Code §3953.30 which provides that where no owner's title insurance policy is purchased, the title agent issuing the lender's title insurance policy must provide the mortgagor with a notice explaining the mortgagor's exposure and the availability of an owner's title insurance policy. A copy of such notice must be maintained for at least 10 years after the effective date of the lender's title insurance policy.

Newly added Ohio Rev. Code §3953.32 requires a title insurance company or agent to offer closing or settlement protection to the lender, borrower, and seller of the property and to the

applicant for the title insurance which the company or agent is issuing. Such protection must indemnify its purchaser against certain listed acts of the title insurance company's agent or anyone acting on the agent's behalf.

New Ohio Rev. Code §3953.33 requires every title insurance agent or agency handling certain services to conduct annual independent reviews of its escrow, settlement, closing and security deposit accounts. Agents and agencies must provide the superintendent reasonable access to those accounts. Records for the listed accounts must be maintained for a period of at least 10 years.

Ohio Rev. Code §3953.35 prohibits title insurance agents from committing certain listed acts in connection with mortgage loans of less than \$75,000. Prohibited acts include knowingly coercing or wrongfully instructing a consumer to enter into a loan, knowingly failing to disclose to the consumer that the consumer does not have to close on the loan and knowingly making a material misrepresentation to the consumer regarding the terms of the loan. Any violation of this Section constitutes a violation of the Ohio CSPA.

### **Real Estate Brokers**

Ohio Rev. Code §4735.05 requires the appointment of a superintendent for the Ohio real estate commission and the real estate appraiser board and provides the superintendent with certain specified powers including the collection of information during the course of investigating complaints and conducting inspections and audits regarding violations of this section and the conduct of licensed real estate brokers.

SB 185 revises Ohio Rev. Code §4735.05 to include a new subsection (E). The new provision allows for the release of information gathered during investigations, inspections and audits to the superintendent of financial institutions for purposes relating to the Ohio Uniform Commercial Code, the superintendent of insurance for purposes relating to title insurance regulations, and to the attorney general or to local law enforcement agencies and local prosecutors.

### **Real Estate Appraiser Board**

Ohio Rev. Code §4763.03 requires that real estate appraiser board to adopt certain rules regarding certified and/or licensed real estate appraisers as well as investigate complaints and conduct inspections and audits.

SB 185 adds a provision to §4763.03 allowing for the release of information gathered during investigations, inspections and audits to the superintendent of financial institutions for purposes relating to the administration of the Ohio Uniform Commercial Code, the superintendent of insurance for purposes relating to the administration of the title insurance regulations, and to the attorney general or to local law enforcement officials and local prosecutors.

SB 185 adds a provision to Ohio Rev. Code §4763.12 to prohibit any person from knowingly compensating, instructing, inducing, coercing or intimidating a licensed or certified appraiser for the purpose of corrupting or improperly influencing the appraiser's independent judgment.

Finally, SB 185 adds new Ohio Rev. Code §4763.19 that, as a general rule, prohibits persons who are not licensed or certified appraisers from performing appraisals. The exception to this

rule permits lenders using a market analysis or price opinion, an internal valuation model or an automated valuation model to continue to do so, subject to certain conditions. The conditions are that the lender must give a copy of the document used in lieu of an appraisal to the consumer and include with the document a disclaimer specifying the source of the document was a market analysis, price opinion or automated valuation model report and not licensed or certified appraiser.

This summary of the changes made to Ohio law by SB 185 is general in nature and should not be construed as legal advice. If you have any specific comments or questions concerning the effect of SB 185 on your mortgage lending business practices, please contact either Arthur J. Rotatori at (216) 378-9932 or at [arotatori@mcglinchey.com](mailto:arotatori@mcglinchey.com) or Barbara Friedman Yaksic at (216) 378-9915 or at [byaksic@mcglinchey.com](mailto:byaksic@mcglinchey.com).