

**Rule Summary and Fiscal Analysis (Part A)****Attorney General**

Agency Name

Division

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**109:4-3-19**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Determining a consumer's ability to repay a residential mortgage loan .****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **SB185**General Assembly: **126**Sponsor: **Sen. Padgett**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **1345.05**

5. Statute(s) the rule, as filed, amplifies or implements: **Chapter 1345.031(B)(2)**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Pursuant to the General Assembly's enactment of SB 185, this rule defines unfair, deceptive, and unconscionable practices in residential mortgage lending in Chapter 1345 of the Revised Code.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

To provide factors for considering a consumer's ability to repay a residential mortgage loan (i.e. credit score, credit history, debt to income ratio, expected increases in income, temporary income, etc.); to establish factors that if used as sole or predominant factor in determining consumer's ability to pay then method is unreasonable; to provide records retention criteria for ability to pay analysis.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

To clarify that the federal Interagency Guidance on Nontraditional Mortgage Product Risks is to be given great weight and due consideration when conducting an analysis on a consumer's ability to repay the loan when the loan product is a nontraditional mortgage loan product or a mortgage loan product with a discounted introductory rate. Also, added a minimum time period for records retention of not less than two years or a maximum of whatever is required by other applicable state or federal law. Technical corrections were also made per the request of LSC.

To provide additional clarification to question #5 on the RSFA regarding which statute the rule amplifies.

## 12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

**FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

The proposed rule will have no impact on the agency's revenues and expenditures. The proposed rule is expected to have little impact to the budget of the agency. Any increase in revenues that may result from civil penalties assessed for violations of the rule will be offset by the administrative costs in investigating and enforcing the provisions of the rule.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

n/a

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The cost of compliance by affected persons may include the costs of making changes to underwriting procedures to ensure that the company is using a reasonable method to determine a consumer's ability to pay a residential mortgage loan. Businesses may have additional costs in developing compliance checklists for the underwriters to use that incorporates the factors identified in the rule.

16. Does this rule have a fiscal effect on school districts, counties, townships, or

municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**