

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

Agency Name

Division

Kelly L Nomina

Contact

30 E. Broad Street Columbus OH 43215-0000

Agency Mailing Address (Plus Zip)

614-995-0326

Phone

614-644-6135

Fax

109:4-3-28

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Unconscionable terms in home mortgage loans .**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(C)**

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

To define unfair, deceptive, and unconscionable practices in residential mortgage lending for purposes of Chapter 1345, pursuant to the enactment of SB 185.

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 specify arbitration provisions that are unconscionable in a residential mortgage loan; to require mortgage brokers, loan officers, and non-bank mortgage lenders to

disclose and provide copies of the arbitration procedures and fees to the consumer, and to prohibit the award of attorneys fees on default of a mortgage note without an award from a judicial body.

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 basis for determining that an arbitration clause is unconscionable must be on grounds that exists in law or in equity for the revocation of a contract. To clarify that suppliers are not prohibited from collecting check collection charges. Also made technical and grammatical changes per LSC's request. Also, 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 will include the costs of making changes to forms that contain arbitration clauses.

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**