

## ***Pocket Guide to Ohio's New Anti Predatory Lending Law- SB 185***

*This pocket guide is not intended to be used as legal advice. The pocket guide is basic information about SB 185, Ohio's new anti predatory law.*

### ***Introduction***

The Ohio General Assembly enacted SB 185 (Homebuyers' Protection Act) on May 24, 2006. The Governor of Ohio signed this legislation into law on June 19, 2006 with a January 1, 2007 effective date. This legislation was brought about as a result of widespread press coverage on the issue of foreclosures that was covered in a four part series entitled "Brokered Dreams", published in the Columbus Dispatch from September 18 through 21, 2005. These articles documented the fact that Ohio led the nation in foreclosures as a result of weak and non-existent consumer mortgage loan protections and an aggressive broker network that took advantage of a lax set of state laws. Advocates in Ohio pointed out that lenders were not covered under Ohio's Consumer Sales Protection Act. The other major flaw in the existing legislation was that appraisers were not required to be licensed in Ohio. Advocates had stated forcefully during the debate in 2002 that consumers had more protections buying a toaster than they did when they purchased a home in the State of Ohio.

### ***Coverage of the Homebuyers' Protection Act***

The Homebuyers' Protection Act imposes a duty on the mortgage broker to obtain a loan advantageous to the needs of the borrower; creates, for non-bank lenders, a duty of fair dealing to the borrower; prohibits pre-payment penalties for loans less than \$75,000, and limits the amount of such penalties for loans above that amount.

### ***Enforcement of SB 185***

The legislation will allow the Attorney General and County Prosecutors from all 88 counties in Ohio to enforce directly, the Ohio Mortgage Broker Act.

SB 185 removes the exemption from lenders and provides that Ohio's Consumer Protection Act prohibits all acts that the Attorney General and/or court find to be unfair and deceptive. State and federal chartered institutions remain exempt.

SB 185 puts in place national criminal background checks for loan officers, brokers, and real estate appraisers relative to their applying for licensure in Ohio.

This legislation allows private attorneys representing clients to bring actions against persons who may have violated SB 185.

Current law provides the Superintendent of Financial Institutions, the Attorney General, or a buyer to bring a civil action to enjoin a violation of the Ohio Mortgage Broker Act. .

The bill gives the Superintendent of Financial Institutions and the Attorney General direct enforcement authority for the Ohio Mort-

gage Broker Act and other related laws and includes additional requirements.

### ***Enhanced Licensure for Real Estate Appraisers and Title Insurance Agents***

SB 185 prohibits anyone from performing a real estate appraisal for mortgage loans if the person is not licensed or certified. This legislation prohibits knowingly bribing or coercing an appraiser for the purpose of corrupting his judgment. The bill contains additional requirements for title insurance agents. Specifically, the bill requires every title insurance agent or agency and any subcontractors to maintain an errors and omissions policy.

### ***Public Disclosure of Violations***

SB 185 requires that The Department of Commerce establishes a website to list brokers and loan officers who have been convicted of any lending violation.

### ***Housing Counseling and Financial Literacy***

SB 185 creates the Consumer Financial Education Board in the Department of Commerce. This 12 member Board is authorized to provide grants to nonprofits for various financial education programs and design a pilot financial literacy program.

Contact First Call for Help at 211 for referral to a housing counseling agency that can help you in your community