

## **Attention: Mortgage Brokers**

January 2007

### **Provision of Credit Scores and Reports under SB 185**

The Division of Financial Institutions (Division) has received multiple inquiries regarding the requirement in recently enacted SB 185 that, as of January 1, 2007, mortgage brokers must provide mortgage applicants with a copy of their credit scores and reports pursuant to Revised Code 1322.062(C) which provides:

*A registrant shall deliver to the buyer, immediately upon receipt, a copy of any nonproprietary or publicly available credit score and report obtained regarding the buyer by the registrant for the purpose of the mortgage loan application.*

Inquiries received by the Division pertain to the meaning of the phrase “nonproprietary or publicly available” and whether copies of the credit reports and scores obtained directly or indirectly from the credit reporting agencies such as Equifax, Trans-Union, and Experian are required to be delivered to the buyer.

As you know, federal law already requires that mortgage lenders and brokers provide consumer borrower applicants a copy of their credit scores. (*See 15 U.S.C. 1681g(g)*). Ohio’s new law essentially expands that right to require that the applicant’s credit report also be provided.

Credit reports obtained from the three major reporting agencies do not appear to be proprietary. Further, these reports appear to be publicly available in the sense that they can be obtained by the individual on whom the report is compiled, as well as by creditors having a valid purpose. If a mortgage broker obtains credit reports through a local credit reporting agency, it may be prudent for the broker to review its contract with the local agency to determine if the contract contains any restrictions relating to proprietary information.

The intent of the phrase “nonproprietary or publicly available” appears to be for the limited purpose of protecting internal formulas that the lender may have in converting credit reporting agencies’ materials for its own underwriting purposes. Consequently, registrants subject to the Ohio Mortgage Broker Act should be providing copies of borrowers’ credit reports and scores in conformity with the requirements of Revised Code 1322.062(C).

If you have any questions regarding this matter, please contact our Consumer Finance legal staff at the Division by calling 614-728-8400.