

**W**elcome to the 25th issue of our quarterly newsletter. This marks a milestone for our firm. Our first newsletter was issued in Spring of 1999 and since then we have expanded our staff, our offices and our services in order to serve our clients better. We're proud of our progress and of the significant part all of our clients, associates, staff and others have had in helping us grow. We appreciate your feedback about this newsletter and enjoy bringing it to you!

## FEDERAL HIGHLIGHTS

The Federal Trade Commission ("FTC") issued its "**Disposal Rule**," effective June 1, 2005, which requires reasonable measures to protect against unauthorized access to or use of consumer information in connection with its disposal.

The FTC adopted a final rule concerning enhanced disclosure of the means to opt out of receiving **prescreened** credit solicitations.

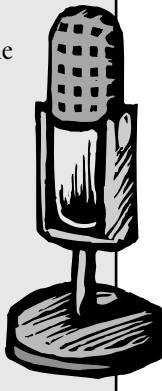
Republican Congressman Robert Ney and Democratic Congressman Paul Kanjorski have introduced a **predatory lending bill** in the United States House of Representatives. The bill would significantly revise HOEPA, including a reduction in the points and fees threshold.

## "TALKING THE TALK"

In **April**, **Terry Franzén** will speak at the Georgia Collectors Association's Multi-Unit Annual Meeting at Lake Lanier Island regarding the "FACT ACT." In **May**, she will address the Real Property Law Institute (RPLI) at Amelia Island regarding an Update on Truth In Lending and RESPA Developments.

**Loretta Salzano** has been invited to speak to closing agents of the Dixie Land Title Association in Atlanta in **April**. In **May**, she will address mortgage fraud at the RPLI and at the Subprime Symposium in Las Vegas. She will speak about Predatory Lending, Fraud Prevention and Litigation at the Consumer Credit Conference in Dallas in **November**.

**John Bedard** will discuss recent FDCA case law developments at the Georgia Collectors Association's Multi-Unit Annual Meeting at Lake Lanier Island in **April** and in **October** at the Consumer Credit Conference in Dallas.



The Office of the Comptroller of Currency ("OCC") has issued **predatory lending guidelines** for national banks.

## HMDA DATA RELEASE

Before releasing HMDA data to third parties (as now required within 30 calendar days for requests after March 1st), lenders must protect consumer's privacy by removing the application or loan number, date application received, and action taken date. Lenders should also:

- Analyze data for disparities in lending patterns and take actions to minimize reputation, regulatory and litigation risks.
- Protect analysis from disclosure by retaining outside counsel to engage consultants to analyze data and separate consultants' legal review data from raw data.
- Justify perceived disparities in lending patterns.

## STATES IN BRIEF

The **California** Court of Appeals ruled that YSP is not a point or fee under California's Predatory Lending Law. The California Supreme Court ruled that the Oakland City Predatory Lending ordinance is unenforceable.

By administrative bulletin, the **Connecticut** Department of Banking has set the minimum interest rate to be paid on mortgage escrow accounts for the year 2005.

The **Georgia** Legislature passed Georgia Senate Bill 100, the "Georgia Residential Mortgage Fraud Act." The bill now goes to the Governor. The legislation will establish the criminal offense of "residential mortgage fraud."

The **Georgia** Legislature also passed legislation to amend the Georgia Residential Mortgage Act (GRMA). Georgia Senate Bill 82 includes "housekeeping" changes affecting the banking, credit union, check cashing and mortgage industries.

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**Illinois** amended the Consumer Fraud and Deceptive Business Practices Act (Illinois House Bill 4712) to place restrictions on the use of social security numbers.

The **Indiana** legislature has amended the state's predatory lending law to clarify that only a TILA violation triggers the life-of-the-loan extension for asserting the right of rescission defensively in a foreclosure.

**Michigan** has amended its discharge of mortgage requirements. Effective December 15, 2004, Michigan HB 5832 revised the form of deeds and mortgages.

The Department of Banking and Insurance in **New Jersey** has revised the limits applicable to appraisal fees.

The Summit County, **Ohio** predatory lending ordinance that was enacted on an emergency basis several months ago has been revised. The Ohio Legislature has enacted legislation similar to the federal Servicemember's Civil Relief Act.

**Oregon** has increased the initial and renewal application fees for licensing under the Oregon Mortgage Banker and Mortgage Broker Licensing Act.

The **Tennessee** Residential Lending, Brokerage and Servicing Act has been revised to require registration of loan originators working for licensees and registrants, effective January 1, 2005. The Tennessee Department of Financial Institutions has published a bulletin clarifying the types of duties which will trigger the loan originator registration requirement.

**Texas** has revised its regulations under the Mortgage Broker and Loan Officer Licensing Act to clarify when a licensee is considered to have engaged in false and misleading practices.

The Finance Commission of **Texas** recently adopted new home equity lending regulations, effective March 3, 2005, to clarify the methods by which a home equity loan borrower can notify a lender of its failure to comply with its obligations under the Texas Constitution, Article XVI, Section 50.

**Texas** has revised its regulations under the Mortgage Broker and Loan Officer Licensing Act to clarify when an individual must be licensed and more clearly define the terms "mortgage broker," "loan officer," and "mortgage loan." The Act also clarifies which entities are exempt from the provisions.

Effective May 2, 2005, **Utah** Senate Bill 172 will amend certain provisions of the Utah Residential Mortgage Practices Act.

The **Wyoming** State Legislature recently passed the Wyoming Residential Mortgage Practices Act requiring licensing for first mortgage brokering and lending.

*If you would like further information about legislative developments, please contact Leslie Howell at 770-248-2885, ext. 243.*

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**Publisher's Note:**

*Points of Interest* is published by Franzén and Salzano, P.C. for clients and colleagues in the lending industry and should not be construed as legal advice. The contents are for general information purposes only. You are urged to consult legal counsel concerning any specific situation or legal issue.

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