

HUD ANNOUNCES ROADMAP FOR RESPA REFORM

HUD announced a roadmap for reform of Regulation X which implements RESPA. HUD is seeking input from numerous groups in the industry and plans to conduct three general, "invitation-only" roundtable discussions.

FEDERAL HIGHLIGHTS

The Class Action Fairness Act of 2005 was recently signed into law. The Act significantly increases access to federal courts for class actions so that class action defendants will now have greater opportunity to defend class actions in federal courts.

President Bush signed the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. In addition to changes to the bankruptcy code, the Act amends disclosure requirements, as well as a creditor's ability to cancel an open-end consumer credit plan under the Truth in Lending Act.

STATES IN BRIEF

Arkansas has enacted a new "Reverse Mortgage Protection Act." Arkansas also recently passed the Personal Information Protection Act; amended the Consumer Protection Act; and amended the Fair Mortgage Lending Act.

The Ninth Circuit Court of Appeals in **California** has held that the Fair Credit Reporting Act preempts the California Financial Information Privacy Act ("SB1") to the extent that SB1 regulates the sharing of information between financial institutions and their affiliates. The California Supreme Court held that California state courts may refuse to enforce arbitration clauses that require individual arbitration and prohibit class action lawsuits.

Georgia Senate Bill 82 makes clerical changes applicable to the banking, credit union, check cashing and mortgage industries, as well as changes that expand the Department of Banking and Finance's authority. The Residential Mortgage Fraud Act (Senate Bill 100) establishes the criminal offense of "residential mortgage fraud," making Georgia the first state to do so.

Idaho has amended the Residential Mortgage Practices

"TALKING THE TALK"

In **October**, **Terry Franzén** will serve as Moderator for a panel discussion at the 2005 CRA and Fair Lending Colloquium in Austin, Texas and will speak at the NHEMA Attorney Roundtable in Coconut Grove, Florida regarding wage and hour issues affecting the lending industry. In **November** Terry will also speak at ACI's Predatory Lending Conference in Las Vegas.

In **September**, **Loretta Salzano** will address the Dixieland Title Association at Perdido Key. In **October**, she will speak at the Southeastern Mortgage Brokers Conference at the Beau Rivage. She will also moderate the NHEMA Attorney Roundtable in Florida and will speak at the ACI Mortgage Fraud Conference in Las Vegas. In **November**, Loretta will speak about Predatory Lending and Fraud Prevention, and Litigation at the Consumer Credit Conference in Dallas. She will also chair and present at ACI's Predatory Lending Conference in Las Vegas.

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

Michelle Canter will discuss the impact of the Bankruptcy Reform Act at the GCA's Multi-Unit Annual Meeting in **October**.



Act to require licensing for an agent acting under an exclusive contract with not more than one licensee.

The **Illinois** Supreme Court has ruled that a lender did not engage in the unauthorized practice of law when it charged a fee for preparing the note and mortgage on its own loans. Illinois House Bill 4050 creates a predatory lending pilot program within Cook County that will require information be submitted to a predatory lending database.

Indiana has recently amended provisions of the Indiana Uniform Consumer Credit Code and the Indiana Home Loan Practices Act.

Kansas House Bill 2172 has amended the Kansas Mortgage Business Act and certain provisions of the Uniform Consumer Credit Code.

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The **Louisiana** legislature has amended the Residential Mortgage Lending Act to require testing for mortgage lender, broker and originator licensing applicants.

Maine has enacted new laws regarding escrow accounts and payoff statements (HB 980), and registration of loan officers (HB 900).

Beginning January 1, 2007, **Maryland** law requires licensing of loan originators and an in-state office for many mortgage lenders.

Montana recently amended the Mortgage Broker and Loan Originator Licensing Act (S.B. 117 and S.B. 274); the definition of interest; and a penalty provision relating to excess charges on consumer loans.

New Mexico House Bill 363 amends the New Mexico Privacy Protection Act by restricting the use of social security numbers.

In **Ohio**, the Court of Appeals has now held that the Toledo Predatory Lending Ordinance is valid in many respects.

Oklahoma has passed House Bills 1452 and 1581 to amend provisions of the Oklahoma Mortgage Broker Licensure Act.

Oregon recently amended the Oregon Mortgage Banker, Mortgage Broker and Loan Originator Licensing Act to clarify when a person has a right of action under a bond.

South Dakota's licensing and renewal fees for mortgage bankers and mortgage brokers have increased.

Tennessee has extended the permissible term of an open-end mortgage (TN S.B. 719).

The **Texas** Legislature recently amended a section of the Finance Code dealing with the form of loan contracts (H.B. 1547) and changed the requirement that certain mortgage documents contain a notice of confidentiality rights (S.B. 461). The Finance Commission of Texas adopted new regulations under the Mortgage Banker Registration Act providing for standard forms to be used when a prospective applicant has been pre-qualified or pre-approved.

Utah Senate Bill 172 amends certain provisions of the Utah Residential Mortgage Practices Act, including the definition of "the business of residential mortgage lending."

Washington Senate Bill 5266 prohibits municipalities from regulating the terms, conditions, or disclosures of any lawful financial transaction between a consumer and a consumer lender, mortgage broker, escrow agent, and national or state bank.

The **Wisconsin** Division of Banking adopted new rules and amended existing provisions relating to the registration, examination, education, and disclosure requirements of mortgage bankers, mortgage brokers, and loan originators.

Publisher's Note:

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