

FRANZÉN AND SALZANO WELCOMES SCOTT JOHNSON

We are delighted to inform you about our newest associate, **Scott Johnson**. Scott joined Franzén and Salzano, P.C. in August 2003. Scott received a B.S. in Biology from the University of Georgia. He received his J.D. from the University of South Carolina in 2003.



While at the University of South Carolina, Scott was the Production Editor for the ABA Real Property, Probate, and Trust Journal. Scott assists our clients in litigation and compliance matters.

HUD WITHDRAWS RESPA REFORM FROM OMB REVIEW

The Secretary of HUD has withdrawn the RESPA proposal from review by the Office of Management and Budget. The Secretary stated that HUD intends to meet with industry and consumer groups and brief Congress. Thereafter, HUD may revise the rule and publish the revised rule for public comments.

FEDERAL ACCURATE CREDIT TRANSACTIONS ACT ("FACT ACT")

The Federal Trade Commission and Federal Reserve Board adopted joint final rules establishing various effective dates for provisions of the FACT Act that do not contain specific effective dates.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT CHANGES

The Soldiers' and Sailors' Civil Relief Act was recently rewritten. It is now called the Servicemembers' Civil Relief Act. The changes address coverage, waivers, interest rate limits on debts incurred before military service, stay of proceedings, default judgments and other issues.

★ HR TIP ★

Although Georgia is an "at-will" employment state, many of our clients choose to have non-solicitation and non-compete agreements with their employees. Call Terry if you would like assistance in drafting an agreement for your company.

LITIGATION UPDATE

10th Circuit Court of Appeals Upholds Do-Not-Call Rule: In a February 17, 2004, decision, the 10th Circuit Court of Appeals held that the do-not-call list does not violate telemarketers' free speech rights. The court stated that the do-not-call registry is "valid commercial speech regulation because it directly advances the government's important interests in safeguarding personal privacy and reducing the danger of telemarketing abuse without burdening an excessive amount of speech."

"TALKING THE TALK"

Terry Franzén will speak in **October** at the Conference on Consumer Finance's Consumer Credit 2004 Seminar in Grapevine, Texas regarding federal, state, and local predatory lending laws.

Loretta Salzano will discuss predatory lending in Baltimore in **May**. Also in **May**, she will speak about servicing issues at the ACI conference in D.C. In **September**, she will speak on compliance issues in Captiva Island, Florida.

Both **Loretta** and **Drexel Beck** will speak at the **May** GELA meeting regarding recent administrative actions in Georgia, and both will address the Southeast Mortgage Broker Conference at Beau Rivage in **September**. Drexel's topic is "Top 10 Ways to Stay Out of Hot Water with the Banking Department." Drexel also teaches a class entitled "Georgia Mortgage Laws, Rules and Regulations," presented monthly by the Georgia Association of Mortgage Brokers Education Foundation (GAMBEF). Please contact GAMBEF for scheduled classes.



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STATES IN BRIEF

CALIFORNIA: OAKLAND

This ordinance, originally enacted in October of 2001, is still on hold. Most recently, the California Supreme Court agreed to hear the appeal of the American Financial Services Association ("AFSA"). The ordinance is enjoined pending the California Supreme Court's decision.

GEORGIA

Georgia has passed a bill addressing pay day lending. The new law, effective May 1, 2004, is intended to codify the Georgia Attorney General's and the Industrial Loan Commissioner's long-standing position that pay day lending is illegal in Georgia. The use of an agency or partnership agreement between an in-state entity and an out of state bank is addressed in the new law.

IDAHO

Legislation amending the Residential Mortgage Act and requiring loan originator licensing was sent to the Governor on March 20, 2004 (ID S.B. 1389). See also ID H.B. 523 and ID H.B. 570.

INDIANA

Indiana House Bill 1229 enacts new provisions concerning home loans and high cost home loans (effective January 1, 2003), and changes the existing Loan Broker Act. Most of the new high cost law does not apply to certain banks, as well as to loans "that can be purchased" by FNMA, FHLMA or the FHLB.

NEW MEXICO

New Mexico S.B. 228 revised the high cost home loan law and repealed the special assignee liability provisions applicable to manufactured homes and home improvement loans. New Mexico has also adopted administrative regulations effective January 30, 2004, concerning New Mexico's Home Loan Protection Act.

NEW JERSEY

New Jersey revised its wet settlement law effective January 9, 2004.

NEW YORK

The New York Banking Department recently amended Part 410 of Title 3 of NYCRR. The amendments increase the surety bond requirements for mortgage bankers, impose additional record keeping and reporting requirements, and include definitions of "consultant," "independent contractor," and "employee."

NEW YORK CITY

On January 26, 2004, a trial court held that the New York City predatory lending ordinance was unenforceable and invalid. The City Council did not appeal the trial court's ruling by the March 16, 2004 deadline. Therefore, the New York City ordinance is dead.

OREGON

Oregon Mortgage Banker and Broker licensing regulation changes increase the renewal fee, effective January 1, 2004.

SOUTH DAKOTA

South Dakota H.B. 1144 increases mortgage banker and broker licensing fees.

UTAH

The Utah High Cost Home Loan Act (UT H.B. 160) takes effect May 3, 2004. Utah also enacted changes to its Residential Mortgage Act (UT S.B. 178).

WEST VIRGINIA

W.Va. H.B. 4168 changes the mortgage lending law concerning good funds.

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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