

FRANZÉN AND SALZANO WELCOMES DREXEL BECK



We are very pleased to announce that **Drexel Beck**, former Director of Mortgage, Georgia Department of Banking and Finance, has joined the firm as Certified Examination Manager and Lending Analyst, effective October 1, 2003. Drexel retired from his position with the

Department after thirty years of service.

Drexel is a graduate of the University of Alabama.

Currently, Drexel lives in Dunwoody, Georgia, where he enjoys playing golf.

GEORGIA LAW UPDATE

GRMA RULE CHANGES

The Georgia Department of Banking and Finance (“DBF”) adopted new rules under the Georgia Residential Mortgage Act (“GRMA”), effective August 17, 2003. As the DBF indicated, it will now license processors as loan brokers. The new rules list the

“TALKING THE TALK”

Terry Franzén will speak in Atlanta regarding predatory lending at an ICLE Seminar in **October** and at the CRA & Fair Lending Colloquium in **November**. Also in **November**, she will present on the topic of predatory lending at the Conference on Consumer Finance in Dallas and at the Predatory Lending Conference in Las Vegas. In **January**, she will address the Fair Debt Collection Practices Act at a collection law seminar in Savannah, Georgia.

Loretta Salzano will speak regarding mortgage fraud at NHEMA’s Attorney Roundtable in **October** in Sarasota. In **November**, she will discuss servicing issues at NHEMA’s Southeast Atlantic Conference in Miami and she will speak concerning predatory lending to the National Association of Professional Mortgage Women in Chicago and in Atlanta.

Leslie Howell will speak to the Mortgage Bankers Association in Atlanta in **November** regarding HMDA changes.



activities which may qualify as loan processing. The revisions also change the “Per Loan Fees” form, licensing fees, qualifications for the employee exemption, and the requirements concerning advertisements, a broker’s physical place of business in Georgia, branch managers, background checks, audits, tangible net worth, bonds and fines.

EMPLOYEE BACKGROUND CHECKS AND CEASE AND DESIST ORDERS

Recently, the DBF has cited GRMA licensees for employing persons with “cease and desist” orders issued against them by the DBF. Licensees must check the DBF’s website listing cease and desist orders (www.state.ga.us/dbf/cdorders.html). Also, the DBF has stressed the importance of conducting follow up background checks on employees at least every 24 months.

PREDATORY LENDING

The DBF has announced that its examiners will include attorneys’ fees in the points and fees calculation under the Georgia Fair Lending Act unless the licensee has documentation signed by the borrower indicating that the borrower had a choice of attorney.

The DBF issued its predatory lending guidelines to state chartered banks October 3. They may be accessed at www.ganet.org/dbf/pdfdoc/GuidelinesrePredatoryLending.pdf

STATES IN BRIEF

CALIFORNIA

Affirming the trial court, the California Court of Appeals has held that Oakland’s predatory lending ordinance is valid and is not preempted by state law. The California legislature has enacted the Financial Information Privacy Act (an “opt in” law for information sharing), as well as a new law that prohibits unsolicited e-mail advertisements.

KENTUCKY

The Kentucky Supreme Court has ruled that non-lawyers may conduct real estate closings.

LOUISIANA

Louisiana has amended the Residential Mortgage Brokers and Lenders Act.

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MAINE

Maine amended the Consumer Credit Code relating to payment of volume fees upon refinancing a loan.

MICHIGAN

Michigan law now restricts unsolicited e-mail. The Michigan Supreme Court has concluded that completing standard legal form documents and charging a fee for that service does not constitute the practice of law.

MISSOURI

Missouri House Bill 221 and Senate Bill 346 make numerous changes impacting mortgage lending, including changes to permissible late fees and prepayment fees.

NEVADA

Nevada has revised the Mortgage Brokers and Mortgage Agents Act and the Mortgage Companies Act so that, among other things, mortgage agents must be licensed.

NEW HAMPSHIRE

New Hampshire amended its mortgage licensing laws to require originator registration.

NEW YORK

The New York Legislature amended the banking law relating to surety bond requirements. New York has also adopted a new regulation under Part 41, clarifying the APR calculation for the high cost home loan threshold when the loan has a discounted initial rate.

NORTH CAROLINA

North Carolina amended the laws relating to the usury exemption, high-cost home loans, and consumer home loans.

OHIO

In Dayton and Cleveland, courts have held that the local predatory lending ordinances are invalid (except to the extent the Cleveland ordinance relates to city contracts and deposits). Cleveland Heights, a suburb of the City of Cleveland, adopted an emergency predatory lending ordinance in June.

OREGON

Oregon amended the Mortgage Lender Law to require criminal records checks on loan originators.

SOUTH CAROLINA

The South Carolina Supreme Court held that only lawyers may close real estate loans, including refinance transactions.

TEXAS

Texas voters approved a referendum authorizing lenders to offer home equity lines of credit secured by Texas homesteads and reducing the risk in home equity lending. The Texas Legislature also passed Senate Bill 1067 authorizing the Finance Commission to provide binding interpretation of the home equity laws.

WEST VIRGINIA

In a recent decision, the West Virginia Circuit Court ruled that licensed mortgage lenders and mortgage brokers must maintain certain documents for at least three years.

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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