

GEORGIA FAIR LENDING ACT UPDATE

On March 7, 2003, changes to the Georgia Fair Lending Act ("GAFLA") became effective. Some of the most notable changes are:

- **The covered home loan category is eliminated.** Therefore, there is no longer a threshold for such loans and the anti-flipping provision applies only to high-cost home loans.
- **Points and Fees:** Now, more fees are excluded from the points and fees calculation. Also, the definition of annual percentage rate and the total loan amount are now consistent with the federal Truth in Lending Act and Regulation Z.
- **Liability:** Purchasers of high-cost home loans are not liable for a violation if they demonstrate that they exercised reasonable due diligence to prevent the purchase or assignment of high-cost home loans.
- **Penalties:** Applicable to lenders and brokers only for home loan violations. Applicable to lenders and brokers, and purchasers, assignees or holders (see above) for high-cost home loans. The statute of limitations is 5 years from date of first scheduled payment.

NEWS FLASH

The Georgia Department of Banking and Finance has announced that it will require licensing for independent loan processors. Formerly, the Department treated both independent and employed loan processors as exempt. Now the Department will only treat W-2 employed loan processors as exempt.

"TALKING THE TALK"

Loretta Salzano will address the Georgia Mortgage Association regarding GAFLA revisions in **April**. She will also speak about predatory lending for the National Business Institute in **July**.

In **May** in Hilton Head, Terry Franzén will speak regarding GAFLA revisions at the MBAG convention. Also in **May**, she will speak regarding predatory lending for the ICLE Real Property Law Institute Seminar in Florida. On **November 6th and 7th**, she will address the Conference on Consumer Finance in Dallas.



Announcement

We are pleased to announce that Franzén and Salzano has now moved to its new location.

PLEASE NOTE

our current address:

**40 Technology Parkway South, Suite 202
Norcross, Georgia 30092-2906**

SOLDIER AND SAILORS' CIVIL RELIEF ACT

Lenders are now receiving many requests pursuant to the Soldier and Sailors' Civil Relief Act. The Act limits the rate of interest that may be collected on debts incurred by persons in military service to 6 percent per annum during the period of service. The Act also provides protection from foreclosure and repossession. See HUD's Mortgagee Letter 2003-04 (at www.hud.gov/offices/hsg/mltrmenu.cfm) or contact us if you would like further information about the Act.

STATES IN BRIEF

ARKANSAS

Arkansas recently repealed its Mortgage Loan Companies and Loan Brokers Act and enacted the Fair Mortgage Lending Act ("FMLA"), effective January 1, 2004.

CALIFORNIA: CITY OF LOS ANGELES PREDATORY LENDING ORDINANCE

In its lawsuit against the City of Los Angeles, the American Financial Services Association ("AFSA") has reached an agreement with the City whereby the City will temporarily halt drafting regulations, thus delaying enforcement of the Los Angeles predatory lending ordinance.

GEORGIA

The Georgia Department of Banking is planning to propose changes to the regulations implementing the Georgia Residential Mortgage Act. The changes will increase fines and provide additional requirements and guidance concerning background checks.

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STATES IN BRIEF continued

IDAHO

Idaho has enacted changes to the licensing, bonding and other requirements of the Residential Mortgage Practices Act.

KENTUCKY

The Kentucky legislature has passed a predatory lending bill. The same bill also revises Kentucky's loan broker act to require loan originator licenses, even for employees of entities that are exempt because of HUD approval.

MARYLAND AND MASSACHUSETTS

Maryland and Massachusetts have both adopted changes to those states' high cost home loan administrative regulations.

MINNESOTA

The Minnesota Department of Commerce has published a sample prepayment fee disclosure.

MISSISSIPPI

Amendments to the regulations implementing the Mortgage Consumer Protection Act impact many requirements for both licensees and exempt entities, including recordkeeping, office requirements and advertising restrictions.

NEBRASKA

Effective September 1, 2003, Nebraska's Mortgage Banking Licensing and Registration Act will restrict refinancing certain mortgages and will limit fees, among other changes.

NEW JERSEY

Both the House and the Senate have passed New Jersey Assembly Bill No. 75. The Bill provides a number of restrictions applicable to three categories of loans: "home loans," "covered home loans," and "high-cost home loans."

NEW MEXICO

New Mexico has adopted a predatory lending bill that provides a number of restrictions applicable to "home loans" and "high-cost home loans."

NEW YORK CITY

The enforcement of New York City's predatory lending ordinance has been delayed because of a lawsuit filed by the Mayor against the City Council.

OHIO: TOLEDO

A court has entered an order delaying enforcement of Toledo's predatory lending ordinance pending a hearing.

SOUTH CAROLINA

A predatory lending bill has passed both the South Carolina Senate and House and is back in the Senate for concurrence in amendments made by the House.

TEXAS

Texas regulations have changed concerning the "plain language" requirement.

VIRGINIA

Virginia has enacted changes to its law prohibiting "flipping."

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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