



## PLEASE WELCOME MARTHA TURNER TO THE FIRM

Martha is an experienced litigator and appellate attorney. After receiving her J.D. *cum laude* from the University of Georgia School of Law in 1989, she practiced with the law firm of Gorby, Reeves, Moraitakis & Whiteman, P.C.

until 1999. She practiced with the firm of Moraitakis, Kushel, Pearson & Gardner from 1999 to 2006.

## FEDERAL HIGHLIGHTS

The United States Court of Appeals for the Third Circuit, in *Vallies v. Sky Bank*, No. 05-1002 (3rd Cir. Jan. 5, 2006), held that the plain language of TILA requires that the actual creditor make all of the required disclosures, and that a creditor violates TILA when it relies on a third party to make a required disclosure, regardless of whether the consumer received the correct information.

The Federal Reserve Board began publishing a 30-year

## "TALKING THE TALK"

In **April**, **Terry Franzén** will speak at the ABA Meeting in Tampa regarding Swanberg and the Development of a Cottage Industry. She will address detection of mortgage fraud in **July** in San Diego for ACI.

**Loretta Salzano** will address the Credit Law Institute in Hawaii in **August**.

**John Bedard** will address debt collection compliance and litigation issues in **April** at the Georgia Collectors Association meeting, as well as at the Medical Dental Hospital Business Associates seminar. He will speak at the ACA International conference in San Diego and the National Business Institute in Atlanta in **July**.

**Michelle Canter** is speaking on Mortgage Fraud at the Conference on Consumer Finance Law in Chicago in **July**.



## Causes For Celebration

*Congratulations to Drexel Beck on being named the GAMB 2005 Affiliate of the Year!*

*John Bedard, his wife Kim, and son Jack, welcomed baby Will to the family March 31.*

Treasury Yield on February 9, 2006, which should now be used for mortgage loans with a 30-year maturity for purposes of calculating many high-cost APR thresholds.

## SECURITY BREACH LEGISLATION

Montana (H.B. 732), Nevada (A.B. 334), New York (S.B. 3492), North Dakota (S.B. 2251), Ohio (H.B. 104), Pennsylvania (S.B. 712), and Texas (S.B. 122) recently enacted legislation pertaining to unauthorized access to personal information as a result of a security breach.

## STATES IN BRIEF

The United States District Court for the Eastern District of **California** in *Chamber of Commerce of the United States of America, et al., v. Lockyer*, 2006 U.S. Dist. LEXIS 8324 (E.D. Cal., Feb. 27, 2006) ruled that S.B. 833 (prohibiting sending advertisements to a fax machine without prior approval) is preempted by federal law to the extent that it purports to regulate interstate activities.

The **District of Columbia** recently passed the Domestic Partnership Equality Amendment Act of 2006, which amended various sections of the District of Columbia Official Code to include provisions for "domestic partners."

**Idaho** amended its Consumer Credit Code (H.B. 587), repealing the notification filing requirement for Regulated Lenders and instead imposing a licensing requirement.

The **Illinois** Department of Financial and Professional Regulation issued an emergency regulation that indefinitely delayed the effective date of the predatory lending database pilot program created by H.B. 4050. Subsequently, the Department announced the zip codes covered by the pilot program, but the announcement did not provide a new implementation date.

The **Indiana** Securities Division recently adopted regulations governing loan brokers and loan originators.

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*Continued from front*

The **Kansas** Division of Consumer and Mortgage Lending recently amended regulations and enacted new requirements for supervised loan licensees.

**Louisiana** has enacted Section 1. R.S. 6:337 relative to insurance settlement proceeds and return of excess funds pertaining to loans impacted by Hurricane Katrina.

**Maine** has enacted S.B. 700 concerning HELOCs accessed by a credit card.

The **Maryland** Commissioner of Financial Regulation recently adopted regulations implementing H.B. 1040, which requires mortgage originators to be licensed beginning January 1, 2007.

The Montgomery County, **Maryland** Predatory Lending Ordinance, scheduled to go into effect March 7, 2006, has been temporarily enjoined.

**Mississippi** now allows licensed or registered mortgage companies to collect a lock-in fee from a borrower to be paid to the lender (H.B. 681).

The **New Hampshire** Banking Department has readopted, with amendments, rules Ban 2400 (relating to all licensees governed by the Banking Department) and Ban 2500 (relating specifically to mortgage banker and broker licensees).

**New Hampshire** has revised its statutory forms for several types of deeds.

The **New Jersey** Division of Banking amended and readopted its regulations relating to advertising by financial institutions (including mortgage bankers and mortgage brokers).

**North Dakota** has repealed the Short Term Mortgage Redemption Act. All foreclosures in North Dakota will now be governed by the general foreclosure statute. Because of the repeal, certain disclosure language is no longer required.

The **South Dakota** Banking Commission has published new licensing and renewal fees for mortgage bankers and mortgage brokers.

The Finance Commission of **Texas** repealed 7 TAC §5.1 which required lenders to provide disclosures containing a list of housing counseling agencies to any applicant for a home loan having an interest rate of more than 12%. The Commission also amended mortgage broker rules 80.9 (relating to required disclosures) and 80.10 (relating to professional conduct).

The **Washington** Department of Financial Institutions overhauled the regulations applicable to Consumer Loan Licensees. The definitional section was revised, while all the other sections were repealed and replaced in their entirety with regulations written in a “question and answer” format.

**Wisconsin** Act 128 restricts a lender’s ability to charge a prepayment penalty on a variable rate loan unless certain conditions are met.

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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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