

## OTS DELAYS EFFECTIVE DATE OF NEW PARITY ACT RULE

The OTS has announced that it will delay for six months the effective date of the rule eliminating for housing creditors preemption of state laws restricting late fees and prepayment penalties. The rule eliminating preemption will now become effective on July 1, 2003 (instead of January 1, 2003). The National Home Equity Mortgage Association (“NHEMA”) has filed suit against the OTS alleging that the OTS has exceeded its authority by enacting this new rule. We will provide updates in this newsletter as the lawsuit progresses.

### Profiles

Michelle Roberts Canter is a native Kansan, receiving her B.S. from the University of Kansas in 1989 and graduating from Washburn University School of Law with Dean's Honors in 1992. Michelle practiced in Topeka, Kansas with a banking and bankruptcy boutique law firm before moving to Austin, Texas to become a lobbyist and Assistant General Counsel with the Texas Bankers Association. In August, 2002, Michelle left Austin for married life in Atlanta. Her husband, Gary, is an environmental engineer with Martin Marietta Aggregates.



### “TALKING THE TALK”

In **February**, Terry Franzén will address the Georgia Bar Association regarding the Georgia Fair Lending Act. In **April** in Orlando she will speak regarding predatory lending. Also in **April**, she will speak regarding litigation under the Telephone Consumer Protection Act and compliance issues under the Fair Debt Collection Practices Act in Savannah, Georgia.

Loretta Salzano will speak regarding the Georgia Fair Lending Act at Chicago Title's annual seminar **February 12th** in Atlanta. She will speak regarding predatory lending in Atlanta in **July**.



### *We are moving!*

Effective Monday, March 31, 2003  
our new address will be:

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

#### PLEASE NOTE

our phone and fax numbers  
will remain the same.

## GEORGIA FAIR LENDING ACT UPDATE

Standard & Poor's has announced that effective February 1, 2003, it will no longer rate loans subject to the Georgia Fair Lending Act (“GAFLA”). S&P's announcement pertains to all Georgia “home loans” (as defined by GAFLA), not just “covered” and “high-cost” loans.

In mid January, the Georgia legislature convened for the new legislative session. Industry groups continue to meet with members of the legislature to discuss potential modifications to GAFLA. We are aware of a number of proposed amendments to GAFLA currently being drafted. Please contact us if you would like e-mail updates as the legislative session continues.

Also note that the Georgia Department of Banking and Finance has revised its “Q&A” regarding GAFLA. For the revised Q&A, please see [www.state.ga.us/dbf/publications.html#GAFLA](http://www.state.ga.us/dbf/publications.html#GAFLA).

## FTC ADOPTS AMENDMENTS TO TELEMARKETING SALES RULE

The FTC has adopted amendments to the Telemarketing Sales Rule. Among other changes, the amended Rule adds a national “Do Not Call” registry. Most of the changes are effective immediately. The “Do Not Call” registry, however, will become effective after a region-by-region phase-in registration program is completed. If

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you would like further information about the amended Rule or about the impact of the amendments on state telemarketing laws, please do not hesitate to contact us.

## RESPA REFORM

Last summer, HUD proposed dramatic changes to the rules implementing RESPA. The public comment period expired in October. We anticipate that rule changes will become final by the end of the year.

## STATES IN BRIEF

### CALIFORNIA: LOS ANGELES

The Los Angeles City Council has enacted an anti-predatory lending ordinance. The ordinance will become effective 30 days after the City's Housing Department has published rules and regulations implementing the ordinance.

### DISTRICT OF COLUMBIA

The District of Columbia has adopted predatory lending regulations to implement the new predatory lending legislation. Both the new legislation and the new regulations became effective January 28, 2003.

### GEORGIA

The Georgia Department of Banking and Finance is considering changing its policy so as to require Residential Mortgage Act licensure for independent mortgage loan processors. Please contact us for further information.

### MICHIGAN

On December 23, 2002, Michigan enacted the Consumer Mortgage Protection Act ("CMPA"). The new law preempts local ordinances. The CMPA applies to all "mortgage loans" and requires two new disclosures for these loans. Further, the CMPA prohibits balloon loans of less than five years and prohibits financing single premium credit life and similar products.

### OHIO: CLEVELAND

The Cleveland, Ohio City Council has amended its predatory lending ordinance. Among other things, the amendments provide that the Certificate of Compliance must be filed for loans meeting the high-cost thresholds only. Previously, the ordinance required a Certificate for all mortgage loans. The amendments also clarify the APR calculation for variable rate products.

### OHIO: TOLEDO

Despite specific preemption by state law, the City of Toledo has adopted a predatory lending measure applicable to all "home loans" effective in mid-February 2003.

### NORTH CAROLINA

North Carolina has adopted permanent rule changes concerning recordkeeping and other requirements under the Mortgage Lending Act. The rules become effective on or about April 1, 2003.

#### ***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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