

Welcome to the fourth issue of our quarterly newsletter. Visit our website at www.franzen-salzano.com where you can find more information about our firm, our published articles, and special client services. As always, we invite your suggestions of topics you would like to see covered in the newsletter. Also, if you prefer, we will send you the newsletter on-line if you provide us with your e-mail address.

"TALKING THE TALK"

Terry Franzén will be presenting the following topics to The Conference on Consumer Finance: San Antonio, **March 14-15**, Transactions involving Real Estate and Dwellings; Dallas, **April 20-21**, Recent Developments involving Real Estate Finance and Predatory Lending Initiatives, Legislation, and Litigation; and Santa Monica, **June 8-9**, Update on Consumer Credit Litigation.

On **June 21** Leslie Howell will address the Association of Professional Mortgage Women regarding legislative issues.

REWARDS AND RECOGNITION FOR F & S PARTNERS!

Congratulations to **Loretta Salzano** for receiving the **1999 President's Choice Award** in recognition of her service as Legal Counsel to the Georgia Association of Mortgage Brokers.

Terry Franzén was appointed **Vice Chairman of the Debt Collection Practices and Bankruptcy Subcommittee** of the Consumer Financial Services Committee of the American Bar Association – the next meeting will be March 23-26 in Columbus, Ohio.

E-COMMERCE ALERT

Our clients conducting business on-line should be mindful of a few developments. First, on-line operations trigger licensing and disclosure requirements in many states. These requirements may be triggered nationwide by merely maintaining a website, even if the lender does not take applications on-line. Please call us if you would like further information.

Second, a number of states have enacted or are considering legislation which would allow consumers applying for a mortgage on-line to sign and receive disclosures electronically. For instance, Pennsylvania, California and Ohio have enacted electronic transactions legislation. Of course, these state laws do not impact federal disclosure and other requirements. Federal legislation, however, is in the works. Both the U.S. House and Senate are working on different bills relating to electronic transactions. The Federal Reserve Board has proposed a rule that authorizes Truth in Lending disclosures to be made on-line, and HUD is considering a proposal which would allow RESPA disclosures to be made on-line.

Points of Interest IN LEGISLATIVE AND REGULATORY DEVELOPMENTS

"PREDATORY LENDING LAW"

ILLINOIS, MISSOURI, SOUTH CAROLINA AND NEW YORK

Several states are considering "Predatory Lending Law" legislation similar to the legislation enacted recently in North Carolina. Such legislation is currently pending in Illinois, Missouri and South Carolina, and New York has issued proposed "predatory lending" regulations for public comment. These proposals restrict "high cost home loans." In addition, the Illinois, Missouri and South Carolina legislation provides restrictions on "home loans." Each state's proposal defines these terms differently.

Although the proposals differ, there are many similarities. For instance, each proposal prohibits or restricts balloon payments, call provisions, negative amortization, default interest rate increases, advance payments and deferral fees.

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Each proposal, except the New York proposed regulation, prohibits prepayment penalties for certain loans. All of the proposals address “packing,” “flipping” and consumer counseling. The proposals vary with regard to interest rate and fee provisions. For instance, the South Carolina bill provides that certain interest rates and fees are authorized for HUD approved and other government approved lenders and banks but restricted for non-government approved and non-bank lenders. The Illinois legislation proposes to limit to 3% any charge for a home loan which is “in addition to the stated interest...as consideration for the loan.”

CALIFORNIA, GEORGIA, MASSACHUSETTS, MINNESOTA, UTAH AND WEST VIRGINIA

We have heard rumors that predatory lending legislation may be introduced in California, Georgia, Massachusetts, Minnesota, Utah and West Virginia.

OTHER UPDATES

CALIFORNIA

Effective January 1, 2000, the California Residential Mortgage Lending Act was amended to remove limitations on brokerage activity by licensed mortgage lenders. The Act previously limited licensed mortgage lenders to brokering no more than 5 to 10 per cent of their annual loan volume.

GEORGIA

The Georgia Banking Department is expected to soon introduce legislation which will give the Department specific statutory authority to require education and experience for licensees.

WARNING!! WARNING!!

RESPA

The FDIC recently released a document entitled “Practices That May Result in Potential Violations of Section 8 of the Real Estate Settlement Procedures Act.” Please call our office if you would like a copy of this document.

GRAMM-LEACH-BLILEY ACT

The Gramm-Leach-Bliley Act applies to “financial institutions” which is very broadly defined. If you are not certain if the Act applies to you, please call us for help. For instance, one federal agency has stated that in addition to covering lenders and mortgage brokers, the Act applies to check sellers, couriers, career counselors and travel agencies.

Stay Tuned...for regulations implementing the Act. These regulations will specify disclosures which financial service providers will be required to make to their customers and other consumers. What is clear is that the disclosure must include a description of your business’s policy regarding the collection and sharing of “non-public information.” Therefore, we suggest that you consider such a policy before the regulations are enacted so that when they are, you will be able to hit the ground running! Please call us if you need help in drafting your policy or disclosure.

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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