

# LENDERS UPDATE™

A MONTHLY SERVICE TO THE MORTGAGE LENDING INDUSTRY

---

## ALT & ASSOCIATES

Tel: (949) 756-5250

Attorneys at Law

Fax: (949) 756-5270

e-mail:

18010 Skypark Circle, Suite 200

[david.j.alt@altandassociates.com](mailto:david.j.alt@altandassociates.com)

Irvine, California 92614

---

Volume XIII

January 2006

Issue I

---

*We wish all of you a happy and successful New Year.*

*The purpose of the Lenders Update is to provide a “heads-up” of new legislation and regulations affecting the mortgage lending industry. We try to provide brief summaries of new matters so our readers can judge whether the subject impacts their operations. We recommend that our readers review the entire new material in detail where relevant. For your convenience, the applicable statute, regulation or cases can be easily identified in the summary.*

*Our Update includes changes in legislation available to Alt & Associates by January 15, 2005*

## FEDERAL ISSUES

### **HUD REVISES SINGLE FAMILY ORIGINATION LENDING AREAS**

In Mortgagee Letter 2005-40 the U.S. Department of Housing and Urban Development revised its long standing Single Family Origination Lending Areas for its approved lenders. The affect of this new policy should, according to HUD, provide significantly more flexibility in approved areas in which a mortgagee can operate.

The first change expands all lending areas in which the registered office can originate loans. It allows a HUD office to originate loans in all of the HUD office jurisdictions within the lender’s own state and certain surrounding states. For example, a HUD office approved in Santa Ana, CA could originate HUD loans in California, Arizona and Nevada. An office in Colorado, could originate loans in Colorado, Kansas, Nebraska, New Mexico, Utah and Wyoming.

originate loans must be provided as well as verification that the appropriate state licenses for all the states have been obtained. Once again, the Mortgagee Letter, including the matrix of expanded lending areas, can be obtained from HUD. If interested, please try, [www.hudclips.org](http://www.hudclips.org)

### **HUD PROVIDES NEW ELIGIBILITY OF ADJUSTABLE RATE MORTGAGES**

Back on March 29, 2005, HUD published an Interim Rule making available a new adjustable rate mortgage product. It has now published this as a final rule with no changes. The rule enables the secretary to ensure five year highbred ARM's with interest rates adjustable up to 2 percentage points annually. This is commonly known as a 5/1 ARM. Annual rate adjustments for these five year ARM's have a lifetime cap of 6 percentage points. Again, further details are available at [www.hudclips.org](http://www.hudclips.org)

## **STATE ISSUES**

### **CALIFORNIA: ANTI-FAX LEGISLATION**

As we have previously discussed, California Senate Bill 833 significantly impacts unsolicited faxes sent from, or received, in the state. It prohibits sending unsolicited faxes without the prior express invitation or permission obtained for a specific or unlimited number of advertisements. This permission must be for a specific or unlimited period of time. The statute also provides that faxes must be appropriately marked with specific identifying information. This goes significantly beyond the requirements of Federal Law. However in a case brought by the Chamber of Commerce, a California Federal District Court has issued a provisional stay against the effect of this law pending a hearing on January 23, 2006. (Chamber of Commerce v. Lockyer) The stay was issued on December 21, 2005. We will keep you advised as to its future.

### **IDAHO**

Just a reminder, that the State of Idaho has issued licensing and continuing education requirements for loan originators. Loan originators are persons who perform certain activities with respect to residential mortgage loans. Originators are subject to licensing and continuing education requirements. The initial licensing deadline is March 1, 2006.

Loan origination activities mean that, for compensation or gain, a person engages in any of the following activities while representing a mortgage broker or lender;

- ✍ Soliciting, accepting, or offering to accept an application for a residential mortgage loan,
- ✍ Assisting a borrower, or offering to assist a borrower in the preparation of a residential mortgage loan application, or
- ✍ Negotiating the terms or conditions of a residential mortgage loan with a borrower.

The Indiana Department of Insurance issued Bulletin 135 in December 2005. The thrust of the Bulletin is that any person who conducts a real estate closing on behalf of a title insurance producer, or title insurance company in which a title insurance policy is issued or is to be issued, must be a licensed insurance producer.

“Conduct a real estate closing” is described as a person who engages in any of the following:

- ✍ Activities to determine proper execution, acknowledgement and delivery of all conveyances, mortgage documents and the like,
- ✍ Activities to ensure consideration has been passed and all proceeds have been properly accepted and disbursed, or
- ✍ The preparation of settlement or closing statements.

A six month implementation period, for insurers and individuals to complete the license process, has been granted.

#### **WISCONSIN**

Assembly Bill 103 became law on **December 20, 2005**. Wisconsin law currently prohibits a person from making facsimile solicitations to a person who has given notice in writing or by a facsimile that he or she does not want to receive facsimile transmissions. This bill prohibits a facsimile solicitor who has received such notice from disclosing to another the facsimile transmission number of the person who gave the notice.

Obviously, federal law still applies to transmission of faxes in addition to Wisconsin’s prohibition.

## **LEGISLATION EFFECTIVE DATES**

<b>State</b>	<b>Statute</b>	<b>1st Advised</b>	<b>Effective</b>	<b>Statute Type</b>
Wisconsin	AB 103	January 31, 2006	December 20, 2005	Facsimile Solicitations

**Our monthly Lenders Update is published via e-mail as a complimentary service to our subscribers and clients in the financial industry throughout California and the United States. Our Lenders Update Manual: A Guide to State Mortgage Lending Law is available through our website at**

[www.altandassociates.com](http://www.altandassociates.com)

**Only those persons who have requested this newsletter are on our mailing list. Should you have colleagues who wish to receive this complimentary service, please have them e-mail us at**

[susan.graaff@altandassociates.com](mailto:susan.graaff@altandassociates.com)