

# LENDERS UPDATE™

A MONTHLY SERVICE TO THE MORTGAGE LENDING INDUSTRY

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## 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

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*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 to them. 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 September 15, 2005*

## STATE ISSUES

### CALIFORNIA

The California Finance Lenders License provides for the licensing of Finance Lenders within California. Once licensed, a licensee may file a short form license application to operate an additional branch.

California Assembly Bill 1419 was signed into law on **September 6, 2005**. The new statute allows any licensee seeking to engage in business at such a new location to submit an application by certified mail and pay a fee, at least 10 days prior to engaging in business at a new location. In essence, the new law allows a licensee to operate at a new location before the application is approved, if the application is mailed 10 days or more before operation begins.

### NORTH CAROLINA

North Carolina House Bill 237 became effective on **August 25, 2005**.

The Act defines "Affiliated Mortgage Banker" and "Limited Loan Officer" and provides licensing requirements for limited loan officers. The Act also provides an exception from certain requirements for branch managers designated by an Affiliated Mortgage Banker.

Generally, the Act defines "Affiliated Mortgage Banker" as a licensed mortgage banker that:

1.)

- a) is licensed in five or more states to engage in the mortgage lending business, supervised by a regulation acceptable to North Carolina, and
- b) has more than 100 licensed employees, and

- c) has a consolidated net worth of at least one hundred million dollars, or evidence that its parent has the requisite net worth and an unconditional surety.

**Or:**

2.)

- a) Is a direct or indirect wholly owned subsidiary of a bank holding company or a financial services holding company subject to regulation by the Federal Reserve Board or the Office of Thrift Supervision, and
- b) has a net worth of one hundred million dollars or if its parent is a bank holding or financial holding company and its parent has total assets in excess of ten billion dollars.

The Act further defines “Limited Loan Officer” as an individual who, in exchange for compensation as an employee of an affiliated mortgage banker, directly solicits, negotiates, offers, or makes commitments for mortgage loans. Limited loan officers must be licensed. A limited loan officer license is not effective during any period when that person is not employed by an Affiliated Mortgage Banker, and an Affiliated Mortgage Banker must notify the commissioner when it hires a Limited Loan Officer. An applicant for a Limited Loan Officer license may act provisionally as a Limited Loan Officer during the pendency of the application for up to 60 days after the submission of the requisite forms.

Finally, an Affiliated Mortgage Banker may designate a branch manager who does not meet general experience requirements for branch managers so long as, at or before, the designation, it certifies that the person has been employed by the Affiliated Mortgage Banker for at least one year as a loan officer, Limited Loan Officer, or in a comparable position in another state.

## **OKLAHOMA**

The Oklahoma Department of Consumer Credit has adopted emergency regulations regarding continuing education requirements for mortgage brokers. The regulations required licensed mortgage brokers to complete 16 credit hours of qualifying continued education by December 16, 2006. The amended regulations **now require** that the courses be completed before the license is renewed or reactivated. Other aspects of §160:55-3-1.4 remain unchanged.

## **OREGON**

Oregon Senate Bill 1067 was signed into law on **August 17, 2005**. The Act expands the crime of telephone harassment set forth in ORS §166.090. In addition to the activities currently set forth in the statute, a telephone caller now commits the crime of telephonic harassment if the caller intentionally harasses or annoys another person by sending to, or leaving at, the other person’s telephone a text message, voice mail or any other message, knowing that the caller has been forbidden from doing so by a person exercising lawful authority over the receiving telephone. Violation of this statute is a misdemeanor.

A debt collector is exempted from violating this section if engaged in an attempt to collect a debt. The exemption does not apply if the collector causes the telephone of the other person to ring for no “communication purpose”.

## LEGISLATION EFFECTIVE DATES

<b>State</b>	<b>Statute</b>	<b>1st Advised</b>	<b>Effective</b>	<b>Statute Type</b>
California	AB 1419	Sept 30, 2005	Sept 6, 2005	Additional Branches
North Carolina	HB 237	Sept 30, 2005	August 25, 2005	Branch Manager Exemptions
Oregon	SB 1067	Sept 30, 2005	August 17, 2005	Telephone Harassment

**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)**

**ALT & ASSOCIATES provides regulatory, compliance and licensing services, operational advice and transactional assistance, as well as litigation representation, to the financial services industry.**

**Over the past two decades, members of the firm have represented Institutional Lenders and Mortgage Bankers and Brokers in all aspects of their operations.**

**If you have any questions please contact:**

**David J. Alt, Esq.**

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