

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

Irvine, California 92614

Volume XII

APRIL 2005

Issue IV

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 April 15, 2005

FEDERAL ISSUES

A NEW “RESPONSIBLE LENDING ACT”

Congressmen Bob Ney (R-OH) and Paul E. Kanjorksi (D-PA) have introduced their “Responsible Lending Act” into the U.S. House of Representatives on March 15, 2005. This new proposal is an expanded version of that introduced by Congressman Ney in the 108th Congress. According to the two representatives, this is the “most comprehensive, balanced, and effective set of legislative solutions that any Federal or State bill has ever offered for protecting mortgage borrowers from abusive, deceptive and unfair lending practices.”

The proposed legislation includes many provisions to strengthen the Home Ownership and Equity Protection Act, which is sometimes referred to by its Regulation Z section number; “Section 32”. As you know, this is the Federal version of anti-predatory lending legislation. The Bill would also amend provisions of the Real Estate Settlement Procedures Act, federal housing statutes and national laws governing appraisals. The legislation would establish uniform mortgage broker licensing standards and set up a national registry to monitor the industry.

We will keep you advised of progress relative to this substantial modification of existing law in the event that it progresses further than mere introduction.

STATE ISSUES

MONTANA

Senate Bill 454 was signed into law on **March 24, 2005**. The new Act revises the definition of interest to include loan origination fees, points and pre-paid finance charges as defined in Regulation Z, Section 226.2. This affects loans made by a consumer loan licensee.

In addition, Montana has enacted House Bill 557. This bill adds Montana to the long list of states prohibiting a lender from requiring a borrower, as a condition of obtaining or maintaining a loan secured by real property, to provide insurance on improvements to that property in an amount that exceeds its reasonable replacement value.

Both Bills are effective immediately.

UTAH

Senate Bill 157 signed on **March 16, 2005** became effective immediately. The new statute provides a number of technical changes to the Utah Consumer Credit Code.

However, there is a significant change which allows an exception to the requirements that a debtor may prepay the unpaid balance of closed end consumer credit debt at any time, without penalty. Utah law now provides that a debtor may be required to pay a prepayment penalty on a closed end extension of credit secured by a subordinate lien on a dwelling, if:

- The loan is not subject to Section 32 of Regulation Z.
- The creditor offers the debtor the option of entering into either;
 - A contract that does not contain a prepayment penalty, or
 - a contract containing a prepayment penalty, and a
 - rate of finance charge that is lower than the rate of finance charge or fee under the contract without the prepayment penalty.

VIRGINIA:

House Bill 2055 became law in Virginia on March 20, 2005 with the signature of the Governor. The Act changes the Virginia telephone Privacy Protection Act to mirror that of the National Do-Not-Call Registry. Virginia law now requires a telephone solicitor to use a version of the National Do-Not-Call Registry that is no more than 31 days old on the date of the telephone solicitation call. The statute had previously allowed a registry list which could be as much as three months stale.

LEGISLATION EFFECTIVE DATES

State	Statute	1st Advised	Effective	Statute Type
Montana	HB 454	April 30, 2005	March 24, 2005	Origination, Points & Prepayment
Montana	HB 557	April 30, 2005	March 24, 2005	Insurance Requirements
Utah	SB 157	April 30, 2005	March 16, 2005	Consumer Credit Code
Virginia	HB 2055	April 30, 2005	March 20, 2005	Telephone Privacy

**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**

**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., or Kristin S. Stergakos, Esq. at
david.j.alt@altandassociates.com**