

# 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

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

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This month we have only a few new matters to report. Among them, the restriction of the use of another lender or consumer's name in an advertisement in California, Hawaii telephone solicitation issues, Illinois reverse mortgage disclosures and HUD's final rule concerning lender accountability for appraisals.

The new Massachusetts anti-predatory lending statute was just signed by the Governor as this Lenders Update is published. We'll report on it in detail next month.

### **Alt & Associates to Offer New Publication.**

For some time, Alt & Associates has provided to some of its clients, summaries of the lending laws of all 50 states. These summaries, of each state's mortgage lending laws, cover issues such as licensing, permissible interest rates and fees, late fees and prepayment penalties, closing practices, settlement information and the like. We have also provided to our clients, on an ongoing basis, detailed summaries of new statutes and regulations which are only briefly summarized in this publication. It will be our pleasure to publish a book for purchase containing these state and statutory summaries, along with regular quarterly summaries thereafter.

We are currently putting the final touches on this publication and look forward to offering it to you this fall.

*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 new material in detail where relevant. For your convenience, where applicable, the statute, regulation or case can be easily identified in the summary. Our Update includes changes in the legislation available to Alt & Associates by August 15, 2004*

## FEDERAL ISSUES

### **Lender Accountability for Appraisals**

On January 15, 2003 HUD proposed a rule clarifying HUD's position concerning the responsibility of lenders approved by the FHA with respect to appraisals on properties that will be

used as security for FHA insured mortgages. Now, approximately a year and a half later, HUD has adopted the proposed rule with only a few changes.

The final rule states that lenders are accountable for the quality of appraisals on properties. The rule specifically provides that lenders, who submit appraisals to HUD that do not meet FHA requirements, are subject to the imposition of sanctions by the HUD Mortgagee Review Board. This applies both to sponsor lenders who underwrite loans and loan correspondent lenders who originate loans on behalf of their sponsors. HUD feels that this clarification is needed to ensure lenders are aware of their responsibilities with respect to appraisals and that homebuyers receive an accurate statement of the appraised value of their home.

The final rule can be found at 69 Federal Register 43504.

## STATE ISSUES

### CALIFORNIA

California SB 1150, effective **January 5, 2005**, prohibits the inclusion of certain information in solicitations or advertisements without specific disclosures.

Except under limited circumstances, the new statute provides that no person shall use the name, trade name or logo of another lender in a written solicitation for financial services directed to a consumer who has obtained a loan from the other lender without that lender's consent.

However, it is not a violation for a person to use such a name in an advertisement or solicitation if that use is exclusively part of a comparison of like services or products.

Also, with limited exceptions, a person may not include a consumer's loan number or loan amount, whether or not publicly available, in a solicitation for services or products without the consent of the consumer.

### GEORGIA

Georgia is now requiring that licensees register their website domain names with the Department of Banking and Finance as a d/b/a name if it is different than the name(s) licensed or registered with the Department.

### HAWAII

Hawaii SB 2902 regulates telephone solicitation, by defining certain conduct as unfair or deceptive. The Act became effective **April 19, 2004**.

The Act defines the following as unfair or deceptive acts or practices:

- Representation by a telephone solicitor that the solicitor is registered in Hawaii or has received an endorsement or approval by any governmental agency of Hawaii.
- A telephone solicitation call to a telephone number that is listed on the national do-not-call registry.

Except under limited circumstances, a telephone solicitor may not request or accept payment from a consumer or make or submit any charge to the consumer's credit or bank account before the telephone solicitor receives from the consumer an express verifiable authorization.

## ILLINOIS

Illinois HB 5197 became effective **August 5, 2004**. The new law requires residential mortgage licensees to provide a new disclosure to borrowers of a reverse mortgage loan concerning senior tax deferrals in Illinois. At the time a reverse mortgage loan is made or brokered, a licensee must provide to the borrower a separate document that informs the borrower that by obtaining the reverse mortgage the borrower's eligibility to obtain a tax deferral under the Senior Citizens Real Estate Tax Deferral Act may be adversely affected

## LOUISIANA

Louisiana HB 1143 is effective **January 1, 2005**. The statute prohibits licensed lenders from engaging in the business of making sales of goods at any location where consumer loans are made.

The following are among the exceptions allowed by the Act:

- The sale and financing of thrift and buying club memberships,
- Insurance authorized by the Louisiana Insurance Code, and
- Financial and tax services, including the use of electronic cash for loan disbursement.

## NORTH CAROLINA

North Carolina SB 676 becomes effective **October 1, 2004**. The new law further regulates loan officers and exclusive mortgage brokers by requiring notice to the Commissioner at the termination of the loan officer's employment or the exclusive mortgage broker's authority.

Importantly, the Act also requires persons engaged in making reverse mortgage loans, including currently licensed mortgage lenders, to gain authorization from the state prior to engaging in reverse mortgage lending.

# LEGISLATION EFFECTIVE DATES

State	Bill No.	Enactment	Effective Date	Subject
Connecticut	HB 5411	May 30, 2004	October 1, 2004	Licensing/Advance Fees
South Carolina	HB 4818	May 30, 2004	May 11, 2004	Delinquency Charges
New Hampshire	HB 1320	June 30, 2004	July 23, 2004	Licensing Requirements
Connecticut	SB 157	June 30, 2004	May 21, 2004	Rate Lock-Ins
New Jersey	AB 2052	June 30, 2004	November 11, 2004	Home Improvement Contracts
Alaska	HB 15	June 30, 2004	July 1, 2004	Telephone Solicitations Managing Principals/Loan Originators
Tennessee	SB 3455	June 30, 2004	January 1, 2005	Property Insurance
Maryland	HB 1447	June 30, 2004	October 1, 2004	Licensing and Education
Louisiana	HB 332	July 30, 2004	June 10, 2004	Delinquency Charges
Louisiana	HB 554	July 30, 2004	July 6, 2004	

Louisiana	HB 1030	July 30, 2004	July 12, 2004	Telephone Solicitations
New Hampshire	SB 500	July 30, 2004	July 1, 2004	Escrow Accounts
Rhode Island	HB 7799	July 30, 2004	November 1, 2004	Loan Payoffs
New Jersey	SB 279	July 30, 2004	July 6, 2004	Predatory Lending
California	SB 1150	August 30, 2004	January 5, 2004	Advertising Disclosures
Hawaii	SB 2902	August 30, 2004	April 19, 2004	Telephone Solicitations
Illinois	HB 5197	August 30, 2004	August 5, 2004	Reverse Mortgage Disclosures
Louisiana	HB 1143	August 30, 2004	January 1, 2005	Sale of Goods
North Carolina	SB 676	August 30, 2004	October 1, 2004	Reverse Mortgage Loans

**Lenders Update is published via e-mail as a service to our colleagues in the financial industry throughout the United States.**

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