

# LENDERS UPDATE™

A MONTHLY SERVICE TO THE MORTGAGE LENDING INDUSTRY

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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. For your convenience, the applicable statute, regulation, cases or website can be easily identified in the summary. Our Update includes information available to Alt & Associates by August 16, 2007

## STATE ISSUES

### CALIFORNIA:

#### Documentation of Recording Date

For a long time in the state of California, the law provided that a borrower under a note secured by a deed of trust was not required to pay interest on a principal obligation for more than one day prior to recording of the deed of trust. This obviously caused significant issues, particularly given the backup in of some crowded County Recorder’s offices. In 2003, these provisions were amended.

However, it seems that nothing is ever settled. The new provisions of the law provide that a borrower may not be required to pay interest on a principal obligation under a promissory note, secured by a deed of trust for more than one day prior to the disbursement of loan proceeds.

The question that has arisen, sometimes with different answers from the California Department of Corporations, is what documents, records, information, data or other forms of verification can serve as evidence of a licensee’s compliance with this requirement. On August 1, 2007, in Release No. 58-FS the DOC published “Evidence of Compliance with Financial Code Section 50204(o)” which would, by its terms, not only apply to this code section dealing with California residential mortgage lenders, but also with civil code section 2948.5 which is applicable to CFL lenders. The statement sets out in detail what evidence is acceptable to show compliance.

This Release can be found on the California Department of Real Estate’s website, at [www.corp.ca.gov/fsb/financial.htm](http://www.corp.ca.gov/fsb/financial.htm) under Commissioner’s Releases, Opinions and Notices.

## **NORTH CAROLINA**

North Carolina has been very busy over the past few months from a legislative and regulatory point of view concerning mortgage bankers and brokers.

House Bill 817 was enacted by North Carolina. This bill can be found at: <http://www.ncga.state.nc.us/Sessions/2007/2007/Bills/House/HTML/H817v6.html> This bill makes mortgage fraud a felony.

House Bill 313 was also enacted. It can be found at: <http://www.ncga.state.nc.us/Sessions/2007/2007/Bills/House/HTML/H313v9.html> This is a bill which we believe is unique in the country at the moment requiring the deed of trust recorded with public records to include the name of the loan originator in the mortgage transaction. The purpose of the Bill, as stated by the NC Office of Commissioner of Banks, is to enable the department and the public to use public records more quickly to identify the loan originator in a mortgage transaction in a variety of situations including when there is a neighborhood pattern of foreclosure.

On the regulatory side, North Carolina adopted the state version of the Subprime Statement we have discussed in the past. The Commissioner will examine institutions for compliance with this guidance. This can be found at: <http://www.nccob.org/NR/rdonlyres/D67770AD-CE04-41AB-814A-524EDBA42FA9/0/Suprimestatement.pdf>.

The Deputy Commissioner of Banks, Mark Pearce issued a memorandum summarizing these and other North Carolina changes and proposals on July 25, 2007. This document can be found at Commissioner of Bank's site at: [www.nccob.org](http://www.nccob.org)

## **OREGON**

### **Automatic Dialing and Announcing Devices**

In one of its last acts before recess, the Oregon state legislature passed and the Governor signed Senate Bill 863 dealing with automatic dialing and announcing devices. Essentially, automatic dialing and announcing devices may not be used unless the device is designed to operate so as to disconnect within ten seconds after the customer terminates the call. These devices also cannot be used unless the range of telephone numbers from which the device chooses does not include numbers to law enforcement offices, hospitals and the like.

Further, these devices cannot be used to dial parties that appear on any applicable Do-Not-Call List. One of the exceptions to this prohibition is to allow calls to individuals who have an established business relationship derived from a previous transaction or series of transactions between the caller and the subscriber that occurred within the 18 months preceding the call.

These systems can only be used between 9 A.M. and 9 P.M.

The statute may be found at: [www.leg.state.or.us/bills\\_laws/](http://www.leg.state.or.us/bills_laws/) under 2007 Regular Session.

## GENERAL NOTICE

After 8 years at our present location, we are pleased to announce that we are moving our Irvine office to new quarters where we can take advantage of upgraded phone services and other technology. The move will take place August 31, 2007 and our office will be closed that day but should you have an emergency, you may reach David on his cell at 949-433-5402.

After August 28, 2007 please send all mail to the new address to avoid mail forwarding delays. The new Irvine office location is:

**Alt & Associates  
2102 Business Center Drive, Suite 130  
Irvine CA 92612  
New telephone: 949-253-5755  
New fax: 949-253-5756**

Our emails will all remain the same so during the transition, if you experience any problems, please email us so we can best serve your needs.

**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**

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**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:**

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