

# 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 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 July 15, 2005*

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## STATE ISSUES

### COLORADO

Effective **September 1, 2005**, Colorado House Bill 1288 prohibits certain telemarketing practices related to cellular telephones. The Act prohibits the use of a scanning device or other electronic means to identify a cellular telephone number. The statute also makes a commercial telephone solicitation to a cellular telephone illegal. The prohibition does not apply to a commercial telephone solicitation that is in relation to a preexisting commercial relationship.

### CONNECTICUT

Effective **October 1, 2005**, Connecticut Senate Bill 1219 requires non-depository financial institution licensees to file an application prior to changing the name specified on the license. The application fee is \$100.

### ILLINOIS

Illinois House Bill 1428 was signed into law on **June 17, 2005**. The statute amends the Mortgage Escrow Account Act to expand the scope of the definition for "mortgage lender", and makes the additional entities subject to the requirements of the Mortgage Escrow Account Act.

The Act adds the following to the definition of "mortgage lender":

- Savings banks;
- Credit unions;
- Mortgage bankers; and
- Any institution, association, partnership, corporation or person who services a residential loan, including successors in interest of the loan.

When any mortgage lender pays property taxes from an escrow account, the mortgage lender is required to give the borrower written notice of the following, within 45 business days after the tax payment:

- The date the taxes were paid;
- The amount of taxes paid; and
- The permanent index number, mortgage account number, address of the property, or other property description that is used for assessment and taxation purposes.

This notice may be included on, or with, other documents or statements provided to the borrower. The notice may also be provided in a manner accessible to the borrower by telephone, fax, email, or internet access. If more than one borrower is obligated on the loan, only one borrower needs to be given the notice.

## **TENNESSEE**

Tennessee Senate Bill 1346 became effective upon its signature into law on **June 18, 2005**. The Act removes from the definition of “mortgage loan broker”, for licensing and regulatory purposes, any person who, for compensation, only processes, or offers to process, mortgage loans for others.

## **TEXAS**

### **HB 955**

Effective **September 1, 2005**, Texas House Bill 955 prohibits misleading advertising, and updates licensing procedures and requirements for mortgage lenders and brokers.

A creditor may not, in any manner, advertise or cause to be advertised a false, misleading, or deceptive statement or representation relating to a rate, term, or condition of a credit transaction or advertise credit terms that the person does not intend to offer to consumers who qualify for those terms. A creditor, who complies with the Truth in Lending Act and Federal Reserve Regulation Z in advertising a credit transaction, will be presumed not to have engaged in false, misleading or deceptive advertising.

Each licensed mortgage broker is responsible for any act or conduct performed by the mortgage broker or a loan officer sponsored by, or acting for, the mortgage broker in connection with the origination of a mortgage loan, or a transaction that is related to the origination of a mortgage loan in which the mortgage broker knew, or should have known, of the transaction.

The following changes have been made regarding mortgage broker licensing:

- License application fees are not refundable and may not be credited or applied to any other fee or indebtedness owed by the person paying the fee.
- Loan officer applicants must show proof of successful completion of 30 hours of approved education courses. Previously, only 15 hours of education were required.
- A person whose license has been expired for 91 days or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

## HB 1547

Effective **September 1, 2005**, Texas House Bill 1547 requires that if the terms of a loan contract agreement were negotiated in Spanish, a copy of a summary of those terms and other pertinent information must be provided to the debtor in Spanish, in a form identical to closed end disclosures.

## SB 988

Effective **September 1, 2005**, Texas Senate Bill 988 establishes standards for loan officer licensee education courses. The education courses required for a loan officer license must cover ethics, the Real Estate Settlement Procedures Act, the Truth in Lending Act, and the Equal Credit Opportunity Act. The Texas Finance Commission may approve any education course approved by the Texas Real Estate Commission, The Mortgage Bankers Association of America, or the National Association of Mortgage Brokers.

## LEGISLATION EFFECTIVE DATES

State	Statute	1st Advised	Effective	Statute Type
Colorado	HB 1288	July 30, 2005	Sept 1, 2005	Cell Phone Telemarketing
Connecticut	SB 1219	July 30, 2005	October 1, 2005	Name Change
Illinois	HB 1428	July 30, 2005	June 17, 2005	Mortgage Lenders
Tennessee	SB 1346	July 30, 2005	June 18, 2005	Mortgage Loan Brokers
Texas	HB 955	July 30, 2005	Sept 1, 2005	Advertising, Licensing Procedures
Texas	HB 1547	July 30, 2005	Sept 1, 2005	Loan Contract Agreements
Texas	SB 988	July 30, 2005	Sept 1, 2005	Loan Officer Licensee Education

**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.**

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