

STATE PRIVACY LAW UPDATE

*Mortgage Bankers Association
Quality Assurance Conference*

*July 31 – August 1, 2003
San Francisco, California*



FINANCIAL PRIVACY

- Federal Gramm-Leach-Bliley Act
- State Law
- California Local Ordinances
- 2003 Legislation & Initiatives

FINANCIAL PRIVACY

Federal Gramm-Leach-Bliley Act

- Must provide initial privacy notice and annual thereafter
- Must offer customers an opportunity to opt out of certain nonaffiliated third party information sharing
- Does not apply to affiliate information sharing
- States may enact laws offering greater protection than under GLB so long as the law is not inconsistent with GLB or makes it physically impossible to comply with both laws.

FINANCIAL PRIVACY - State Law

- Connecticut, Illinois, North Dakota, and Vermont
- Vermont: Applies to licensed mortgage lenders and brokers organized or regulated under the laws of the State of Vermont, the United States, or any other state or territory. In short, the law requires, among other things, that each financial institution obtain the consent (or opt-in) of the consumer before nonpublic person information may be shared with nonaffiliated parties, unless one of the laws exceptions is applicable.

FINANCIAL PRIVACY

California Local Ordinances

San Mateo County ~ 8/6/02

Daly City ~ 9/9/02

Contra Costa County ~ 9/24/02

Alameda County ~ 10/30/02

Marin County ~ under consideration

City of Berkeley ~ under consideration

City of San Francisco ~ under consideration

FINANCIAL PRIVACY

California Local Ordinances

- Greater Protection
- Opt-in
- Affiliated & Nonaffiliated Third Party Sharing
- “doing business”
- Banks seek injunctive order

FINANCIAL PRIVACY

2003 Legislation & Initiatives

- California Senate Bill 1
- California Privacy Initiative ~ Opt-in
- Massachusetts House Bill 295 ~ Restricts information use
- New Jersey Senate 2245 and Assembly 3216 ~ Opt-in
- New York Assembly Bill 869 ~ Opt-in / State mandated notice
- New York Assembly Bill 7489 ~ Opt-in

Personal Information Privacy

2003 Legislation

- California Senate Bill 27 ~ Direct Marketing
- California Senate Bill 590 ~ Prohibits Sharing – Opt-out
- Oregon House Bill 3413 ~ Do Not Share List

ONLINE PRIVACY

- State Laws ~ Nebraska Unfair and Deceptive Trade Practice
- 2003 Pending Legislation
 - California Online Privacy Protection Act of 2003
 - New Jersey Online Privacy Protection Act
 - New York State Internet Privacy Law
 - New York voluntary internet law

Security Breaches

- California ~ Breach of System Security
 - Effective July 1, 2003
 - Must disclose any breach of system security following discovery or notification of the breach
 - To California residents
 - Whose Unencrypted personal information
 - Was or Reasonably believed to have been acquired by an unauthorized person.
 - First or last name and either SS#, License#, Id Card, or Account# in combination with any required security code, access code, or password

Document Destruction

- Threat of Identity Theft
- Disposal of Records with Personal Information
- Washington
- Four state bills ~ Shredding, Erasing, otherwise ensuring destruction

CREDIT & DEBIT CARD TRANSACTIONS

Prohibitions Against Printing More Than the Last Four or Five Digits of a Credit or Debit Card Number and/or Expiration Date on Electronic Receipts.

Not applicable to transactions in which the only means of recording the number is by handwriting or imprint.

Existing Laws:

AR, AZ, CA, CO, IA, IL, LA,
KS, ME, MN, MO, NV, ND, OH,
OK, TX, VA, WA

2003 Legislation:

KY, MI, NY, NC, PA, RI

SOCIAL SECURITY NUMBERS

- TRENDS
- Restrictions on mailing letters and post cards
- Restrictions on requiring social security numbers for certain transactions
- Restrictions on using social security numbers as identifiers
- Restrictions on requiring users on internet sites from transmitting social security number unless certain requirements are met

FAIR CREDIT REPORTING

- Federal Fair Credit Report Act
- Sunset provisions ~ January 1, 2004
- U.S. H.B. 1766 ~ The National Uniform Standards Privacy Act of 2003
- Reauthorization Debate
- States – Patchwork of Privacy Laws – Result?

THE END

