



Mortgage and Home Equity Lending

Chapman and Cutler has significant understanding of loan products secured by residential mortgages. In particular, we advise creditors on all types of Truth-in-Lending disclosure issues (including rescission matters), as well as compliance with Regulation C (Home Mortgage Disclosure), HUD Regulation X (Real Estate Settlement Procedures) and Section 32 (HOEPA) loans.

We counsel lenders on direct and indirect loan programs, including those who work with brokers, and we draft and negotiate broker agreements for loan origination purposes.

Additionally, our practice group has experience with commitments, rate lock agreements, escrows, flood insurance appraisal and related topics common to mortgage lending. One of our attorneys was on the board of directors of the Illinois Mortgage Bankers Association and serves as vice chair of the Legislation Committee of that trade group.

In connection with the advice we offer, the firm represents creditors if borrowers sue them individually or in class actions. We have successfully defended claims related to interest and fees, yield spread premiums and the allegation that filling out loan forms constitutes the unauthorized practice of law.

Chapman attorneys have assisted with the development of new products, including home loan programs with fixed and revolving options (in both amounts and rates) and card-accessed home equity programs. We advise clients on developing programs and purchasing portfolios, including with respect to issues related to federal high cost (HOEPA) loans and state and local predatory lending restrictions.

Representative Transactions

- We defended a lender in a class action against a claim that charging a document preparation fee constituted the unauthorized practice of law. The Illinois Supreme Court ruled in favor of our client.

Attorneys

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Related Practices

Banking and Financial Services
Consumer Credit Transactions
Consumer Financial Services
Debt Collection Practices
Deposit and Investment Products
Interest and Usury
Internet Banking
Private Banking Services and Trust Counsel Services

- We are representing the trustee of a securitized trust and assignee of mortgage loans against allegations that the originating lender violated the Illinois Interest Act based on points charged. The trial court upheld the trustee's position. The case is now on appeal to the Illinois Supreme Court.
- Chapman and Cutler defended a mortgage lender accused of violating the Illinois Interest Act by charging a prepayment penalty. The Seventh Circuit Court of Appeals upheld the favorable lower court decision based on federal preemption.