

**BUTERA & ANDREWS**

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**SUMMARY COMPARISON OF MAJOR STATE AND LOCAL “PREDATORY LENDING” LEGISLATION**

as of October 24, 2001

CONCEPT <sup>i</sup>	California AB 489, as amended by AB 344	California-Oakland Ordinance 12361 CMS	Connecticut HB 6131 (Public Act No. 01-34)	District of Columbia 13-262	Georgia - Atlanta Ordinance 01-O-0843	Georgia - DeKalb County Ordinance	Illinois Regulations (JCAR/OBRE)	Illinois – Cook County Ordinance 240684	Illinois – Chicago City Ordinance	Massachusetts Regulations 209 CMR 40.00 et seq./ HB 1144	New York Regulations 41	North Carolina S.L. 99-0332	Ohio – Dayton Ordinance 29990-01	Pennsylvania SB 377 (Act No. 55 of 2001)	Texas SB 1581	Virginia HB 2708	Virginia HB 2787
<b>Date of Passage (p) or Effective Date (e)</b>	9/12/01p 9/14/01p	10/2/01p	5/31/01p	4/3/01e (some provisions effective on the earlier of 60 days after the date rules are promulgated or 150 days after the effective day of the Act)	9/17/01p	6/26/01p; preliminary injunction enjoining enforcement granted	4/17/01p; 5/17/01e	4/17/01p	8/30/00p	6/25/01p	6/28/00p	7/21/99p	7/11/01p; TRO granted	6/25/01p	6/11/01p	3/22/01p	3/22/01p
<b>Expand or Change Key HOEPA (a/k/a Section 32) “Trigger” Definitions<sup>ii</sup></b>	[applies only to consumers loans in which the principal balance does not exceed \$250,000]		[includes open-end lines of credit but not reverse mortgages]	[applies to “home loans” as defined in Section 101(12) of the Act – a lengthy definition with numerous exceptions]	[applies to loans secured by residential real property in the City of Atlanta with a dwelling for not more than 4 families or a condo unit] DOES NOT APPLY TO LOANS		[applies to loans secured by residential real property in the county with a dwelling for not more than 4 families or a condo	[applies only to loans with a total amount of \$250,000 or less and loans primarily for a business purposes]		[includes secured open-end lines of credit but not unsecured ones nor reverse mortgages)	[includes open-end lines of credit but not reverse mortgages]	[new trigger definition: if loan for dwelling for single family or loan <\$300,000 and meets one of the following triggers: APR trigger (see below), or p&f trigger (see	[applies to loans secured by residential real property in the City of Dayton with a dwelling for not more than 4 families or a condo unit] DOES NOT APPLY TO LOANS	Loan must involve property within the Commonwealth of Pennsylvania and its principal balance is less than \$100,000.  The act also provides for the regulation and licensing of mortgage	HCL defines as: for household purposes, secured by borrower’s home or dwelling for 4 or fewer families,	Prohibiting mortgage lenders and brokers from flipping mortgage loans.	Increasing the maximum penalty for a violation of the Mortgage Lender and Broker Act; increasing the amount of the bond to be posted; prohibiting

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					FOR BUS. PURPOSE OR LOANS > \$150,000 (for HCL) or >\$100,000 (for a threshold loan)			unit] DOES NOT APPLY TO LOANS FOR BUS. PURPOSE OR LOANS > \$250,000				below), or prepayment fees more than 30 months after closing or prepayment fees > 2% of amount prepaid]	FOR BUS. PURPOSE OR LOANS > \$250,000)	bankers and mortgage brokers, imposing additional powers and duties on the Department of Banking and the State Real Estate Commission, providing penalties, providing for license exemptions, license requirements, etc.)	principal amount =< ½ of maximum conventional loan amount as per the Federal Mortgage Association, and credit transaction of \$20,000 or more and meeting APR or p&f triggers below.		loans if reliance on real estate as the source of repayment; prohibiting encouragement to default, etc.)
Annual Percentage Rate Trigger (HOEPA = APR > T-bill	X (APR > T-bill + 8%)	X (APR > 90-day standard mandatory delivery	(like HOEPA) Interest rate cannot be “unconscio		X for HCL (APR > T-bill + 6% on first lien mortgage, or	X for HCL (APR > T-bill + 5%); X for a threshold	X (APR > T-bill + 6% on first lien, or T-bill + 8% in case of junior	X (APR > T-bill + 6% on first lien mortgage,	X (APR > T-bill + 6% on first lien mortgage,	X (APR > T-bill + 8% for first mortgage or T-bill + 9% for junior mortgage)	X (APR > T-bill + 8% for first lien or T-bill + 9% for junior lien)	(like HOEPA)	X (APR > T-bill +9% or current HOEPA trigger,	X (like HOEPA)	(like HOEPA)		

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+ 10%)		commitment for a first mortgage from Fannie Mae or Freddie Mac + 3% on first lien, or + 5% in case of junior lien)	nable.”		+ 8% on second mortgage); X for a threshold loan (T-bill + 4.5 < APR < T-bill + 6.5% on first lien, or APR > T-bill + 8.5% on second lien)	loan (T-bill + 4% < APR < T-bill + 5%); disregarding initial or introductory period; if APR varied, consider the maximum rate permitted.	lien)	or T-bill + 8% in case of junior mortgage)	or T-bill + 8% in case of junior mortgage)				whichever is less)				
Change Point & Fee Definitions or Include More/Different Items in Than HOEPA so Trigger May Be Reached More Often (HOEPA = points & fees > greater of 8% of total loan amount or \$400)	X (fees & points > 6% of the total loan amount)	X (points & fees > 5% of the total loan amount or \$800, whichever is greater)			X for HCL (fees & points > 4% of the total loan amount less the amount of such points and fees of the loan amount is \$16,000 or greater; or \$800 if the loan amount is less than \$16,000)	X (fees & points > 3% of the total loan amount)	X (points & fees > 5% of the total loan amount or \$800, whichever is greater)	X (points & fees > 5% of total loan amount if loan => \$16,000; or p&f > \$800 if loan < \$16,000)	X (points & fees > 5% of total loan amount if loan => \$16,000; or p&f > \$800 if loan < \$16,000)	X (points & fees > greater of 5% of total loan amount of \$400 (adjusted annually) (certain bona fide discount points may be excluded)	X (points & fees > 5% of total loan amount, not counting 3% of qualifying bona fide discount points) (include broker fees)	X (points & fees > 5% of total loan amount if it is at least \$20,000, or lesser of 8% thereof or \$1,000 if it's < \$20,000) (include broker fees; can exclude certain bona fide discount points)	X (points & fees > the lesser or HOEPA p&f trigger or 5% of the total loan amount, or 6% if loan => \$20,000 and purchase \$ loan guaranteed by FHA/VA) (Definition of p&f includes: compensatio	X (like HOEPA)	(like HOEPA)		

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													n paid directly and indirectly to lender, his affiliate, or mortgage broker; all financed credit insurance premiums (exempted if disclosures made)				
<b>Restrictions on Loan Terms</b>																	
No Negative Amortization	X (unless the covered loan is a first mortgage and the originator discloses a neg. amortization provision to the consumer)		X		X	X	X	X	X	X	X (does not apply to open-end HCL)	X	X	X (except for loans to obligors with gross income in excess on 150% of median family income; and except when negative amortization is a consequence of a temporary forbearance or restructure)	X		

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No Negative Equity							X										
No Balloons (seasonal/irregular income adjustments typically OK)	X (for a covered loan with a term of 5 years or less; if adjusted for seasonal/irregular income, the total installments in any year cannot exceed the amount of one year’s worth of payments of the loan) Does not apply to bridge loans.		X (except over 7 yrs. & purchase \$ bridge loans)	X (except over 7 yrs. and 3 months and except when extension option is provided)	X (only if it is more than twice as large as the average of earlier scheduled payments)	X (only if it is more than twice as large as the average of earlier scheduled payments; bridge loans related to the construction of the borrower’s principal dwelling are not considered to call for balloon payments)	X (only if it is more than twice as large as the average of earlier scheduled payments, and if due earlier than 15 years after origination) Does not apply to bridge loans related to principal dwelling.	X (except bridge loans and loans with a term of not less than 180 months but balloon must be disclosed; and except for home equity loans)	X (except bridge loans and loans with a term of not less than 180 months but balloon must be disclosed; and except for home equity loans)	X (except over 7 yrs. & purchase \$ bridge loans)	X (only if it is more than twice as large as the average of earlier scheduled payments; except over 7 yrs. & purchase \$ bridge loans; does not apply to open-end HCL))	X	X (unless a written disclosure is provided to the borrower at least 3 days before closing)	X (only if is more than twice as large as the average of earlier scheduled payments)	X (only if is more than twice as large as the average of earlier scheduled payments, unless balloon payment is due not less than 60 months after closing; this provision does not apply to certain bridge loans)		

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No Call Provision (Debt Acceleration)	X (except when repayment accelerated by default, pursuant to a due-on-sale provision, or due to fraud or material misrepresentation by a consumer in connection with the loan or the value of the security for the loan)	X (except when repayment accelerated by default or pursuant to a due-on-sale clause)	X (except when repayment accelerated by default)	X (except when repayment accelerated by default)		X (except when repayment accelerated by default)				X (if rebates of interest arise from loan acceleration due to default, refund must be calculated by actuarial method or method more favorable)	X	X		X (except when repayment accelerated by default; pursuant to a due-on-sale provision; or where there is fraud or material misrepresentation on an obligor in connection with the loan; or where there is any action or inaction by the obligor that adversely affects the lender’s security for the loan or any rights of the lender in such security)			X
No Advance Payments	X	X (if only two periodic payments consolidated – OK)	X		X (if only two periodic payments consolidated – OK)	X (if only two periodic payments consolidated – OK)				X (if only two period payments consolidated – OK)	X	X	X (if only two period payments consolidated – OK)	X			

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No Modification or Deferral Fees		X	X		X	X				X (unless the loan is no longer HCL and APR was decreased by at least 2%)	X (OK if HCL is in default or 60 or more days delinquent and M&D fees are part of work-out process)	X	X				
No (or Very Limited) Prepayment Fees or Penalties	X (no prepayment penalty after the first 36 months; penalty allowed within the first 36 months only if: consumer has been offered a choice of another product without prepayment penalty; the terms of penalty, rates, points, and fees are	X	X (no penalty for the first 3 years; penalty cannot > 3% of prepaid balance within one year; no > 2% between one and two years; no > 1% between two and three years. Prepayment penalty not allowed if debts >=	X	X	X (and no fees for informing any person of the balance due to pay off the home loan)	X (no prepayment penalty after expiration of 36-month period following the loan date; no penalty > 3% of total loan amount if within one year; no penalty > 2% during 2 <sup>nd</sup> year; or 1% during third year.	X (no prepayment penalty after expiration of 36-month period following the loan date; no penalty > 3% of total loan amount if within one year; no penalty > 2% during 2 <sup>nd</sup> year; or 1% during third year)		X (prepayment penalty permitted if: (1) during first 3 years, (2) prepayment funds not refinanced by lender, and (3) total monthly debts <= 50% of monthly gross income)	X (only prohibits financing of pp if it's refinancing of HCL by same lender or affiliate)	X (no penalty on any 1 <sup>st</sup> mortgage of \$150,000 or less; but, no limitation if preempted by federal law) (any loan)	X (OK if within the first 60 months)	X (1. OK if within the first 60 months; 2. OK if the loan product is also available without a prepayment fee; 3. no prepayment fee on a refinancing of a covered loan with a covered loan if the covered loan being refinanced is owned by the refinancing lender at the time of such refinancing)	X		

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	disclosed at least 3 days before consummation; prepayment penalty is limited to 6 months’ advance interest on the amount prepaid in any 12 month period in excess of 20% of original principal balance; no penalty if covered loan accelerated due to default; no financing of penalty through a new loan originated by the same		50% of monthly gross income)														

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No Increased Interest Rate After Default	X	X	X (and no default charges in excess of 5% of the amount in default)	X	X	X				X	X	X	X	X			
No Mandatory Arbitration Limiting Judicial Relief			X (no mandatory arbitration or class action waiver)	X (no mandatory arbitration or advance waiver of the right to seek relief)	X	X				X (No “oppressive” mandatory arbitration clause or waiver of participation in class action lawsuits)	X (No “Oppressive”)		X				
Restrictions on APR				APR is “substantially greater than the home borrower otherwise would have qualified for” at another lender who would have based APR on the													

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				borrower's credit scores.													
No Bad Faith Avoidance of Restrictions as by Structuring as Open-End Credit Plan	X (or by dividing any loan transaction into separate parts)											X	X (no bad faith attempt to avoid the application of this ordinance by dividing any loan transaction into separate parts or any other subterfuge)				
No Enforcement if HCL Contract Leaves Blanks to be Filled In																	X
No waiver of a Violation of Predatory Lending Bill				X													
<b>Limitation on Sales &amp; Marketing</b>																	
No Lending Without Prior					X (no loan can be made)	X (notice from a	X (only requiring			X (lender must give notice,	X (only requires	X		X (lender must give the			

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as of October 24, 2001

CONCEPT <sup>i</sup>	California AB 489, as amended by AB 344	California-Oakland Ordinance 12361 CMS	Connecticut HB 6131 (Public Act No. 01-34)	District of Columbia 13-262	Georgia - Atlanta Ordinance 01-O-0843	Georgia - DeKalb County Ordinance	Illinois Regulations (JCAR/OBRE)	Illinois – Cook County Ordinance 240684	Illinois – Chicago City Ordinance	Massachusetts Regulations 209 CMR 40.00 et seq./ HB 1144	New York Regulations 41	North Carolina S.L. 99-0332	Ohio – Dayton Ordinance 29990-01	Pennsylvania SB 377 (Act No. 55 of 2001)	Texas SB 1581	Virginia HB 2708	Virginia HB 2787
Credit Counseling					without first receiving notice from a housing counseling agency approved by the Department of Planning and Neighborhood Conservation ) (this provision is not applicable to certain banks but is applicable to their affiliates)	counselor approved by the HUD that the borrower received counseling)	lender to inform borrower about his right to participate in the Mortgage Awareness Program; participation may be waived in writing no less than 2 days after notice)			saying should consider counseling, & give state-approved list of counselors) (creditor must have evidence that borrower underwent counseling or a written waiver)	disclosure that borrower should consider)			cautionary notice – text provided in the bill)			
No Loan “Flipping”					X	X		X	X		X (no “unconscionable” refinancing)	X (any loan)	X		X (any loan; no replacement or consolidation of low-rate home		

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																		loan (APR <= T-bill minus 2%) funded by govnt before 7 <sup>th</sup> anniversary unless new loan has lower APR and p&f, or is a restructure to avoid foreclosure)
No Refinancing if No Reasonable, Tangible Net Benefit to Obligor	X	X (reasonable benefit may be presumed under some circumstances)	X			X (applies to a special mortgage originated, subsidized, or guaranteed	X (no refinancing if additional fees charged within 12 months of the loan											

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		X (for HCL) (no refinancing of a low rate (2% below prevailing market mortgage rate) loan or a loan with nonstandard payment terms, made by CA gov'n't, the City, or an NGO, unless an independent housing or credit counselor determined that the refinance is in the best interests of the borrower)				by gov'n.t or NGO)	origination)										
No Lending Without Due	X (Presumption	X (Presumption	X (Presumpti	X (Presumpti	X (Presumption	X (rebuttable	X (Presumption	X (Presumpt	X (Presumpt	X (Presumption of ability to	X (borrower is presumed to be	X (Presumption	X (Presumption	X (Presumption of	X		

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Regard for Repayment Ability (HOEPA applies only in “pattern & practice” cases)	can repay if monthly payments do not exceed 55% of gross monthly income, no presumption of inability solely by exceeding 55%)	of ability to repay if monthly payments do not exceed 50% of gross monthly income) (if income >120% of median family income, ability to repay does not have to be considered)	on can repay if monthly payments do not exceed 50% of gross monthly income)	on can repay if “sufficient monthly residual income” – according to the Tables of Residual Incomes By Region – Dept. of Vet. Affairs. No presumption of inability solely b/c not “sufficient monthly residual income”) Lender must also verify the current and expected income and current	of ability to repay if monthly payments do not exceed 50% of gross monthly income) (if income >120% of median family income, ability to repay does not have to be considered) (this provision is not applicable to certain banks but is applicable to their affiliates)	presumption that the lender made the loan with due regard to repayment ability if the borrower’s debt-to-income ratio is 41% or less)	can repay if monthly payments do not exceed 50% of gross monthly income) Specific requirements of how to verify ability to repay.	ion of ability to repay if monthly payments do not exceed 50% of gross monthly income) (if income >120% of median family income, ability to repay does not have to be considered)	ion of ability to repay if monthly payments do not exceed 50% of gross monthly income) (if income >120% of median family income, ability to repay does not have to be considered)	repay if monthly payments do not exceed 50% of gross monthly income) (if income >120% of median family income, ability to repay does not have to be considered)	able to repay if monthly payments do not exceed 50% of his gross monthly income) (if income >120% of median family income, this section does not apply (i.e. ability to repay does not have to be considered))	can repay if monthly payments do not exceed 50% of gross monthly income, no presumption of inability solely by exceeding 50%)	ability to repay if monthly payments do not exceed 50% of gross monthly income) (if income >120% of median family income, ability to repay does not have to be considered)				

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				debts.													
No Recommending or Encouraging Default on Existing Loan	X	X (any home loan)	X	X		X				X	X	X (any loan)					X
No Compensating, Coercing or Intimidating Appraiser to Influence Judgment on Property Value													X (no procurement of an unreasonably overstated appraisal)				
No Making or Causing to Make Any False, Deceptive or Misleading Statement or Representation	X (no steering, counseling, or directing a prospective consumer to accept a loan with a risk grade less favorable than the risk grade the consumer would qualify for;		X (no advertising that refinancing high-cost debt will reduce monthly payments without also disclosing that refinancing may			X (AND no discriminating against a protected class)	X (fraudulent or deceptive acts or practices prohibited)			X (no advertising of refinancing without disclosing that HCL will increase # of monthly payments and aggregate amount to be repaid)	X (no advertising of refinancing without disclosing that HCL will increase # of monthly payments and aggregate amount to be repaid)		X (fraudulent or deceptive acts or practices prohibited, such as substantially unfavorable loans terms, current costs exceeding costs in similar transactions				

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	or to accept a loan product at a higher cost than that for which the consumer would qualify)		increase aggregate number of monthly payments and the amount to be repaid)										by 20% )				
No Lending Without Borrower being Able To Seek Independent Review of the Loan Terms							X (when and if the General Assembly appropriates funding for this program)										
No “Packing” – Selling Unrelated Products in Conjunction with HCL										X (unless disclosed to borrower orally and in writing at least 3 days prior to closing)	X						
<b>Point &amp; Fee &amp; Financing Limitations</b>																	
No Financing of Points & Fees or Other Charges Payable to 3 <sup>rd</sup> Parties or of	X (no financing of p&f in excess of 6% of the original	X (no financing of p& f in excess of 5% of the total loan amount			X (no financing of p&f in excess of 4% of the total loan amount	X	X (prohibits only financing of point & fees > 6% of total loan amount; does	X (prohibits only financing of point & fees > 6%	X (prohibits only financing of point & fees > 6%	X (prohibits only financing of points and fess >5% of principal amount of closed end	X (borrower may not be required to finance points & fees and lender may not	X					

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Prepayment Fees or Penalties	principal balance less p&f or \$1,000, whichever is greater)	or \$800, whichever is greater)			less p&f if the loan is \$16,000 of greater, or \$800 is the loan less than \$16,000) (no 3 <sup>rd</sup> party mentioned)		not mention 3 <sup>rd</sup> party)	of total loan amount; does not mention 3 <sup>rd</sup> party)	of total loan amount; does not mention 3 <sup>rd</sup> party)	loan, or of maximum line of credit for open end loan)	finance any points & fees in excess of 5% of total loan amount on non-refinancing (with certain exceptions) and lender may not finance any points & fees in excess of 5% of additional proceeds received on refinancing)							
No Points & Fees if HCL Refinances Lender’s or Affiliate’s HCL			X (within two years, the aggregate of p&f cannot > 5% of the principal or \$2,000, whichever is greater)	X (if original loan was made 18 months of less before refinancing and points & fees > 2% of the new home loan principal		X				X (refinancing not within last 2 year and p&f cannot exceed 5% of additional proceeds received by borrower in connection with refinancing other than appraisal fees, credit report fees, fire,	X (refinancing not within 2 years, except as to additional proceeds over & above the amount of the existing HCL; unclear if broker involved)	X	X	X (but OK to charge points in connection with any additional proceeds paid to the obligor other than charges attributable to the covered loan) Also, no refinancing of a zero-interest or				

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				actually funded, or \$400, and other amount established by a regulation of Mayor)						property, disability insurance, etc – these cannot be financed by creditor if monthly payments of obligor >50% of m. gross income)				low rate loan made by gov’n’t or NGO within the first 10 years, unless the current holder consents in writing).			
No Financing of Credit Insurance (except monthly premium)	X (any home loan) (no financing of any credit life, credit disability, credit property, credit unemployment, debt cancellation or suspension agreement fees)	X (no financing of any credit life, credit disability, credit property, credit unemployment, or any other life or health insurance premiums)		Home loan financing credit life, credit disability, credit property or insurance not considered predatory if the insurance plan is approved pursuant to Section 10b of the Act for the Regulation	X (no financing of any credit life, credit disability, credit unemployment, or any other life or health insurance)	X (no financing of any credit life, credit disability, credit unemployment, or any other life or health insurance)	X (no home loans financing credit life, credit disability, credit unemployment, or any other life or health insurance)	X (no home loans financing credit life, credit disability, credit unemployment, or any other life or health insurance) (unless details and termination policy disclosed	X (no home loans financing credit life, credit disability, credit unemployment, or any other life or health insurance) (unless details and termination policy disclosed	X (no loan which contains single-premium credit insurance, credit life, debt cancellation, and debt suspension)	X (applicable to lenders subject to “no lending without due regard to repayment ability” provision: no financing of property, credit, disability, unemployment, and life insurance in addition to 5% limit on financing of p&f, unless	X (any loan)	X (no financing of any credit life, credit disability, credit unemployment, or any other life or health insurance unless separate oral and written disclosures at least 3 days before closing)	X(unless: 1. at the expiration of 18 months from the date of enactment of this act and for an additional 6 months, lender must offer the obligor the option of purchasing all such insurance on a monthly premium basis; 2. no selling without “Insurance Notice to	X (any loan)		

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				of Credit Life Insurance and Credit Accident and Health Insurance				at least 3 business days before signing agreement )	at least 3 business days before signing agreement )		borrower’s monthly payments do not exceed 50% of his monthly gross income)			Borrower(s)” – text provided by the bill; 3. if obligor decides to cancel, he must receive full premium refund or credit)			
Limit Broker Fees and/or Total Charges												X (points & fees charged or received by lender limited to 1%, but can be 2% in some junior liens) (1 <sup>st</sup> loans < \$300,000)					
No Charging Fee Where Product or Service Not Actually Provided & No Misrepresenting Amount Charged By or Paid to 3 <sup>rd</sup>			X	X						X (includes services not actually performed; services for which the fees bear no reasonable relationship to value of services; fees are	X	X (no “unreasonable compensation”, or compensation for which no or only nominal services performed					

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Party for Product or Service										other wise unconscionable)							
No Fees & Points for Interest Rate Reduction Not Reasonably Consistent with Industry “Customs & Practices” or Otherwise Made in Bad Faith or Unconscionable				X (fees & points cannot be “unconscionable in total amount” - defined in Title I as “oppressive or unreasonably harsh or manifestly unfair, considering all circumstances.”)						X							
No Late Fees for Later Payments						X (unless late fees <= 5% of the past due installment; fee cannot be charged more than once as a											

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						result of a single late payment; and late fees agreed to by borrower as per contract)											
<b>Additional Disclosures</b>				X – disclosure notice in the form promulgated by the Mayor – to be published by the Mayor in the DC Register													
Exact Monthly payments: mortgage insurance, real estate taxes, hazard insurance, principal/interest/mortgage insurance, etc.	X (the consumer must be provided with “Consumer Caution and Home Ownership Counseling Notice” (the		X (the following must be disclosed: notice that “you are not required to complete this agreement							X (“regular monthly (or other period) payments” not specified) Also required to disclose APR or variable rate.							If ANY HOME LOAN with APR > 12%, 3 days after application is made,

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CONCEPT <sup>i</sup>	California AB 489, as amended by AB 344	California-Oakland Ordinance 12361 CMS	Connecticut HB 6131 (Public Act No. 01-34)	District of Columbia 13-262	Georgia - Atlanta Ordinance 01-O-0843	Georgia - DeKalb County Ordinance	Illinois Regulations (JCAR/OBRE)	Illinois – Cook County Ordinance 240684	Illinois – Chicago City Ordinance	Massachusetts Regulations 209 CMR 40.00 et seq./ HB 1144	New York Regulations 41	North Carolina S.L. 99-0332	Ohio – Dayton Ordinance 29990-01	Pennsylvania SB 377 (Act No. 55 of 2001)	Texas SB 1581	Virginia HB 2708	Virginia HB 2787	
	language is specified in the Act) no later than 3 days before closing) (Rebuttable presumption that notice was provided if a signed acknowledgment is obtained from a consumer)		merely because you have received these disclosures or have signed a loan application ”, APR; amount of regular monthly of period payments.															the following must be disclosed: value of counseling, list of counselors, list of resources with mortgage info, other disclosures required by finance commission.
Debt Consolidation Loans - Notice At or Prior to Application that Aggregate Amount &			X (any variable-rate transaction)								X							

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Number of Payments May Increase																	
Notice at Application that Loan Not Necessarily Least Expensive & Should Shop Around										X (also requiring lender to inform borrower that no duty to complete agreement, possibility of losing one’s home, possibility of aggregate amount of loan or number of payments increasing despite aggregate monthly debt payments decreasing)	X						
Additional Notices When Foreclosing							X (if loan delinquent by more than 30 days, notice suggesting counseling required – suggested language										

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							provided in the Act; additional requirement about when to institute action)										
<b>Other Provisions</b>					No funds administered by the City of Georgia may be used in combination with any HCL or predatory loan.												
Home Improvement Contract Proceeds Must Be Payable Jointly to Borrower & Contractor, or at Borrower’s Option to agreed upon 3 <sup>rd</sup> Party Escrow Agent	X		X		X (provided that in no instance shall more than 25% of the total proceeds of the threshold or high cost loan be disbursed at the time of closing) (this	X (and the lender must be presented with a signed and dated completion certificate showing that the home improvements have been completed)	X	X	X	X	X	X	X	X			

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					provision is not applicable to certain banks but is applicable to their affiliates)												
Various Other Restrictions on Home Improvement Lending / Contracting					X (home improvement contractor must furnish notice as published by the Department of Planning and Neighborhood Conservation )			X (no payment from loan proceeds to contractor who has been found (at least twice within the last 24 months) in violation of laws prohibiting deceptive practices)	X (no payment from loan proceeds to contractor who has been found (at least twice within the last 24 months) in violation of laws prohibiting deceptive practices)								
Required Reporting to Credit			X	X (favorable payment						X (to report annually both favorable and	X (at least annually, both favorable and			X (also a lender must verify that a mortgage			

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Bureaus				history must be reported within 6 months)						unfavorable payment histories)	unfavorable payment history)			broker holds a license currently in effect to do business within the Commonwealth of Pennsylvania)			
Additional Governmental Reporting Requirements	X (upon request by the licensing agency or the consumer: documentation that clearly demonstrates whether a loan is a covered loan, original principal balance, APR, points and fees)				X (at the time or recording a mortgage, a certificate of compliance (should be similar to the language provided in the ordinance) must be submitted to the Business License Department)	X (various info about the bank’s lending activity must be reported to the Director of Finance; certificate that the bank is not a HC or predatory lender is required before the bank can be designated as a DeKalb County depository or is awarded a	X (banks must report default and foreclosure data on conventional loans to Commissioner )				X (lenders who make at least 10 HCL per year: annual reporting of top 3 referrals for HCL, 3 Contractors, 3 Consultants & 3 Attorneys)						

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						contract with DeKalb County)											
<b>Enforcement &amp; Liability</b>							Commissioner can impose certain remedial requirements or fines if default and foreclosure rate exceeds the average.										
Violations Deemed Unfair & Deceptive Acts & Practices				X (if violation caused by borrower providing incorrect info to lender, lender is not liable so long as he verified borrower’s current and expected income and debts)							X unfair practice if charge over usual and customary charge for comparable customer or if no reasonable capacity to repay)	X					
Subsequent			X							X (notice to							

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Purchasers or Assignees Liable on All Claims (e.g. Secondary Market)			(disclosure to subsequent purchasers about possible liability required)							assignee or purchaser that loan is subject to TILA required)							
Any Payments Collected in Excess of the Statutorily Permitted Amounts Must Be Refunded to Borrower			X														
Substantial Monetary Penalties	X (claims brought by the licensing agency: administrative penalties not to exceed \$2,500 or civil penalty not to exceed \$25,000 for willful violation; claims	X (claims brought by the City Attorney: civil penalties of not less than \$500 and not more than \$50,000; claims brought by or on behalf of the		X (punitive damages cannot exceed 600% of actual damages; injunctive relief; attorneys’ fees; damages pursuant to DC law,	X (fines of not less than \$100 and not more than \$300 PER DAY) Also, loss of city contracts, loss of business privilege license, and forfeiture of government-									Administrative penalties; 1) a civil penalty up to 42,000 for each offense; 2) suspension of license, 3) removal of an individual from working in this capacity. Civil liability: if purposeful pattern or	FOR HOME LOANS with APR > 12%; in case of a violation of disclosure requirements (see above),		

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	brought by the consumer: actual damages, attorneys’ fees and cost, or the greater of actual damages, attorneys fees and cost or \$15,000 for willful violation) Punitive damages may be awarded.	borrower: actual damages, exemplary damages, attorneys’ fees and costs, etc.)		etc)	funded housing assistance.									practice of material violations, a civil action to recover damages may be initiated.	borrower may recover actual damages , punitive damages up to \$10,000, and court costs.		
Limited Right to Cure, etc.	X (no violation if bona fide errors corrected within 45 days after receipt of the complaint or discovery of the error)			X (no violation if appropriate restitution within 120 days of the home loan initial funding; if disclosure notice	X (no violation if appropriate restitution within 30 days of the loan closing and prior to commencement of any legal action,					X (no violation if bona fide errors shown by a preponderance of the evidence)	X (no liability if appropriate restitution within 60 days of the discovery of a bona fide error)	X	X (no violation if appropriate restitution within 30 days of the loan closing and prior to commencement of any legal action;				

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				complied with and violation not a pattern of practice)	or loan changed from HCL to non-HCL; if failure to comply was not intentional, all of the above applies, except notification can be within 60 days) (this provision is not applicable to activities of certain financial institutions)								if failure to comply was not intentional, notification can be within 60 days)				
If Violation Found, Foreclosure Prohibited, Except by Judicial Order				X													

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<sup>i</sup> Note that this chart is designed to give the reader a general comparison of the major concepts in key bills. Not every concept in every bill is highlighted, and the descriptions contained herein may be simplified and not necessarily complete or fully precise. The reader should use this document only as a rough guide and should carefully read the details of each bill. All bills covered herein can be found on the NHEMA website (<http://www.nhema.org>). Also, other pending state bills or regulations exist that may be of interest.

<sup>ii</sup> Although not expressly noted in the text of this chart, the reader should be aware that many of the state proposals often fail to define key terms or to do so adequately.

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