

Finance News
2005: Issue 1

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MORTGAGE SATISFACTIONS:
THE (POSSIBLY) HIGH COST OF NON-COMPLIANCE

As Bankers Trust found out the hard way, mere negligence in a very simple task could result in a significant expense...

Financial institutions, like other businesses, face tough budget decisions. The cost/benefit decision to allocate revenue toward operations is often difficult to quantify. The result may be to run a very lean operations department. However, because of this, the institution may be unable to satisfy operational requirements.

Pennsylvania has specific mortgage satisfaction statutes that require a mortgage to be satisfied within 45 days after it has been paid and the mortgagor has requested a satisfaction. According to 21 Pa.C.S.A. §681 and §682, the failure to meet the satisfaction time frame subjects the mortgagee to a penalty not to exceed the mortgage amount.

A Luzerne County Court of Common Pleas awarded damages in the amount of \$13,000,000 for failure to satisfy mortgages within the 45-day limit. In *Kornfield v. Atlantic Financial Federal*, Bankers Trust purchased loans that, in the aggregate, totaled \$8,400,000. After payment in full, the borrower requested the mortgages be satisfied; however, the bank did not satisfy the mortgages within the 45-day time frame. Bankers Trust argued that the borrower's oral requests for satisfaction were vague and insufficient to justify the award, as the failure to satisfy was not due to any wanton or malicious refusal to satisfy the mortgages.

The Court found that the mere neglect to satisfy within the time frame is sufficient to create liability. Bankers Trust requested a remittitur of the verdict.

The Court denied the request, and Bankers Trust appealed to the Superior Court.

In August 2004, the Superior Court ruled that the correct measure for damages was the original amount of the loan (\$8,400,000) because the lower court incorrectly included unrelated mortgages in the calculation of damages. It remanded the case to the Court of Common Pleas only for the recalculation of damages.

The *Kornfield* case serves as a warning to financial institutions to pay attention to operations and to properly evaluate the risks associated with ministerial tasks. Maiello Brungo & Maiello's Banking and Financial Services group can assist you in evaluating your operation to determine any potential risk areas.

Hot Banking Topics



HELP YOUR CUSTOMERS TAKE THE STING OUT OF CHECK 21 AND HB 197

When legislation affects your business customers' cash flow, it also affects their relationship with you, the financial institution.

Check 21 could have a serious effect on your customers' ability to enjoy the float on their accounts. HB 197 may affect the cash flow of your customers doing business within the City of Pittsburgh.

For your institution to maintain goodwill with customers in the face of these changes, prompt and accurate communication can be useful. It gives your business customers a "heads up," enabling them to plan properly and prevent cash flow problems. It also may open the door to providing cash management services or other options to help customers proactively handle their cash flow needs.

HB 197, commonly referred to as the City of Pittsburgh bailout legislation, provides for a tax on payrolls not to exceed fifty-five hundredths of a percent on employers conducting business within the city. Employers must file returns and make payments on a quarterly basis. In the past, many businesses enjoyed exemption from the business taxes levied by the city. Thus, for these and other businesses, this tax could have a significant impact on cash flow.

Check 21, of course, requires that businesses understand how the period for the clearing of checks will shorten. Often your business owner customers do not have the time or resources to focus on legislation – even when it affects their vital cash flow. You are in a position to provide the information they need and, in doing so, cement your good relationship. Maiello Brungo & Maiello can assist you in developing appropriate correspondence to send to your customers affected by these and other legislative changes.

FORMS OF BUSINESS - DEMYSTIFIED

For each form of business – corporation, sub-chapter S, limited liability company, partnership, etc. – the paperwork to be filed and the treatment of the enterprise differ. Your staff's failure to obtain the proper documentation for the particular type of entity may put your financial institution at risk.

The mystery of the various types of entities and the paperwork for each can be solved easily with proper training, and Maiello Brungo & Maiello can help. Call or e-mail Mike O'Rorke, mao@mbm-law.net to discuss development and implementation of a training program that will help you ensure that your employees understand business entities and the necessary paperwork for each.

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Maiello Brungo & Maiello provides more legal information for the banking industry and business in general at our Web site: www.mbm-law.net.