

THE COMPLIANCE CONNECTION

REGULATORY NEWS FOR VIRGINIA MORTGAGE COMPANIES
STATE CORPORATION COMMISSION - BUREAU OF FINANCIAL INSTITUTIONS

2014 VOLUME I



The Compliance Connection is part of the Bureau's efforts to improve communication with the companies we regulate. It is distributed to Virginia mortgage and industrial loan association licensees, and other interested parties. It is the licensee's responsibility to read this newsletter and to be familiar with the positions and interpretations stated herein.

Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at P.O. Box 640, Richmond, VA 23218-0640 or via email at bfquestions@sc.virginia.gov.

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Annual Fees to be Assessed by April 25th

It's that time of year again – annual assessment time. Mortgage company assessments will appear as a deficiency on the company's NMLS record (look at the external notes section of the deficiency for instructions on how to obtain the assessment invoice(s)). Licensed as a mortgage lender AND mortgage broker? Then you will receive two separate bills – one for the mortgage broker license (a base fee plus a fee for each loan brokered), and the other for the mortgage lender license (a base fee plus a fee for each loan closed in the name of the licensee). Be sure you pay both bills by the due date or you will be subject to regulatory action (e.g.: civil penalty, suspension or revocation of license). It is also important to make sure the company's contact person listed in NMLS is accurate to ensure the appropriate person receives the deficiency information.

Assessments must be paid by May 25, 2014 and they can be paid through NMLS either by ACH or by credit card. Credit card payments will be assessed a 2.5% "convenience fee" which covers the cost NMLS incurs to process the credit card payment. Once paid, the deficiency will be removed from the mortgage company's record.

Assessments are used to defray the costs of examination, supervision and regulation, pursuant to § 6.2-1612 of the Code of Virginia. Virginia Regulation 10-VAC 5-160-40 provides the details of how the assessment is calculated including the base fee for the different license types and the "per loan" fee.

NMLS Mortgage Call Reports

The MCR contains Residential Mortgage Lending Activity reports (RMLA) that provide data about the loans the company originated in a particular state. The RMLAs for each state the company does business in are filed to complete the MCR, a single report that reflects the entire mortgage activity and financial information for a company.

All companies holding a Virginia mortgage license or companies employing Virginia licensed mortgage loan originators must complete the MCR on a calendar quarterly basis and submit it through NMLS. While Virginia does not charge for the filing of the MCR, NMLS may charge a processing fee for submitting the report. The reports must be filed within 45 days following the end of each quarter. The filing deadlines are the same each year and are as follows:

1st quarter ends March 31—MCR due May 15th
2nd quarter ends June 30—MCR due August 14
3rd quarter ends September 30—MCR due November 14
4th quarter ends December 31—MCR due February 14

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Ceasing Business in VA?

The recent state of the mortgage industry has prompted many licensees to consider closing their business entirely or surrendering their license to operate a mortgage business in Virginia. In addition to speaking to your attorney, you may wish to consider the following when making such decisions:



- Should I contact the Bureau if I am considering closing or ceasing business in VA? Notify the Bureau of your intent to close and provide written details of the steps taken to ensure loans in the pipeline are either closed or properly transferred to other companies. Knowing that a surrender or closing is imminent is helpful to examiners if your company appears on their examination schedule.
- Are there outstanding examination issues that still require a response? The surrender of your Virginia license does not release you from your responsibility to correct violations of state law. The main concern here is overcharge violations that warrant reimbursement to borrowers. Failure to reimburse borrowers for amount(s) unlawfully collected can lead to the Bureau filing a claim against the licensee's surety bond. A bond claim may hinder future attempts to obtain a new bond.
- Have all consumer complaints been properly addressed and resolved? Again, failure to properly respond to the Bureau is a violation of 10 VAC 5-160-50 and failure to refund any overcharges based on a consumer complaint could result in a claim against the licensee's bond.
- Where will the closed, denied and withdrawn files be stored? Who will have access to these files and will the storage facility meet the requirements of the federal Safeguards Rule? Notify the Bureau where the records will be stored and who could be contacted should there be the need to review records (contact name, phone number, email address).
- Now that the decision is made, did I surrender the license(s) in NMLS? **Even if your company license is not renewed through NMLS, it is still necessary to surrender the license(s) through NMLS if you no longer wish the company to be licensed in Virginia. If your company is licensed as both a mortgage lender and as a mortgage broker, each license type must be surrendered through NMLS.** In addition, the original licenses for the main office and any additional offices must be returned to the Bureau's Corporate Structure and Research (Licensing) Section.

We have received several calls from licensees inquiring about putting their license in an "inactive" status. Although there is no official status of this type, the licensee can continue to hold the license even if no Virginia business is originated or pursued, if it continuously maintains a bond (§ 6.2-1604 of the Code of Virginia), files the required annual report in a timely manner (§ 6.2-1610 of the Code of Virginia), pays the annual fee by May 25 (§ 6.2-1612 of the Code of Virginia), maintains current company information in NMLS (10 VAC 5-160-90) and responds to inquiries by the Bureau regarding any examinations required. Examination reports will reflect the inactivity of the licensee, and the annual fee assessment will reflect only the minimum fee stated in Virginia Regulation 10 VAC 5-160-40 (\$400 for brokers, \$800 for lenders and \$1,200 for lender/brokers).

Deputy Commissioner Kyros Retires

After 39 years with the Bureau of Financial Institutions (BFI), **Nick Kyros** hung up his regulator's hat on April 1. Nick joined the State Corporation Commission's (SCC) Bureau of Banking (now BFI) in May 1975 as an economist and was promoted to director of research and structure in 1979. One year later, he was promoted to his current post as deputy commissioner of financial institutions. Nick and his staff ensure that regulated financial institutions – including banks, credit unions, consumer finance companies, and more – meet the statutory requirements for starting business in Virginia and expanding through mergers, acquisitions, and adding branches. We wish him many happy and healthy years in retirement!



Deputy Commissioner Gerald E. Fallen has assumed the duties and responsibilities of directing and managing the Bureau's Corporate Research and Structure Section. Gerald will continue his duties and responsibilities overseeing the Bureau's Administration and Finance Section as well. The Administration and Finance Section provides logistical support to the Bureau's regulatory sections; administers budgeting, accounting, and procurement functions; administers human resources and information technology operations; maintains Bureau records; performs special projects for the Commissioner; and oversees compilation of the Bureau's strategic plan. As you may be aware, the Corporate Structure and Research Section is primarily responsible for, among

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License Update

The following is a list of companies and individuals that have had their license revoked, had an application denied, or paid a fine or civil penalty since August 15, 2013. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of March 15, 2014. Call the Bureau if you have a question concerning a recent denial or regulatory action taken by the Commission.

Mortgage Company License Revocations:

MC – 4862 Precision Funding Group, LLC – revocation order entered November 12, 2013 for failure to: (1) respond to requests from the Bureau in violation of 10 VAC 5-160-50 and (2) maintain a surety bond in violation of § 6.2-1604 of the Code of Virginia.

MC-3825 Kesa Mortgage Group, LLC – revocation order entered November 13, 2013 for failure to maintain a surety bond in violation of § 6.2-1604 of the Code of Virginia.

MC – 4055 Capital Financial Mortgage Corp. – revocation order entered November 22, 2013 for failure to: (1) meet the qualifications for licensure as required by § 6.2-1606 of the Code of Virginia; (2) file an annual report as required by § 6.2-1610; and (3) having two administrative orders entered against it by other states for violations of laws or regulations applicable to the conduct of its business.

MC – 5334 North South Financial LLC – revocation order entered February 27, 2014 for failure to: (1) provide BFI access to its premises, books, records and information to conduct an examination in violation of § 6.2-1611 of the Code of Virginia; (2) pay the annual assessment due May 25, 2013 as required by § 6.2-1612; and (3) maintain a surety bond in violation of § 6.2-1604.

MC – 5072 MetCity Capital, LLC (used in Virginia by JT Holding, LLC) – revocation order entered February 27, 2014 for failure to maintain a surety bond in violation of § 6.2-1604 of the Code of Virginia.

Settlement Orders

MC-4636 SI Mortgage Company d/b/a Sistar Mortgage Company – settlement order entered on January 30, 2014. Paid \$24,000 for allegedly failing to: (1) provide the disclosure required by § 6.2-406; (2) failing to obtain lender authority prior to making Virginia loans in violation of § 6.2-1601; (3) allowing an unlicensed individual to take an application for or offer to negotiate the terms of a residential mortgage loan on their behalf in violation of 10 VAC 5-160-20; and (4) failing to respond to requests from the Bureau in violation of 10 VAC 5-160-50.

MC – 1754 Lifetime Mortgage, Inc. – settlement ordered entered on March 6, 2014. Paid \$2,500 for allegedly allowing an unlicensed individual to take an application for or offer to negotiate the terms of a residential mortgage loan on their behalf, in violation of 10 VAC 5-160-20 (7).

On March 13, 2014, the State Corporation Commission issued an order approving a multi-state Settlement Agreement and Consent Order in regard to Ocwen Financial Corporation and Ocwen Loan Servicing, LLC (MC – 3261).

On August 15, 2013, the State Corporation Commission issued an order approving and accepting a multi-state Settlement Agreement and Order in regard to Amerisave Mortgage Corporation (MC - 2462)

Cease and Desist Orders

Rory T. Wilson d/a/b Integrity Capital – cease and Desist order entered November 15, 2013 requiring the defendant to cease and desist from engaging in business as a mortgage broker in Virginia without a license (Reference § 6.2-1601 of the Code of Virginia).

NMLS Mortgage Call Reports (continued from page 1)

For licensees filing the standard MCR, the company's Financial Condition (FC) is due annually, within 90 days of the company's Fiscal Year End. This component collects financial information at the company level and does not have to be completed on a state by state basis. (One FC is submitted for all states).

For licensees filing an expanded MCR, the company's Financial Condition (FC) must be submitted quarterly, within 45 days of the end of every quarter. This component collects financial information at the company level and does not have to be completed on a state by state basis. (One FC is submitted for all states).

If you do not file the quarterly MCR by each deadline, NMLS will place a deficiency on the company's NMLS record that may hinder the company from renewing its license through NMLS.

In addition, if the MCR is not filed in a timely manner, the licensee will be cited for violations of Virginia Regulation 10VAC5-160-90 (D) by analysts during the licensee's examination. Pursuant to § 6.2-1624 of the Code of Virginia, the Commission can impose a civil penalty on a licensee of up to \$2500 per violation.

Deputy Commissioner Kyrus Retires (continued from page 2)

other things, processing and investigating applications from depository and non-depository institutions, individuals and other business entities for certificates of authority and licenses to conduct business in Virginia, and for branches, offices, relocations, mergers, and acquisitions.

Gerald is well-versed in the operations and functions of the Bureau, having started his career at the Bureau in 1979 as an Investigator in the Corporate Research and Structure Section, and later becoming a Senior Investigator in that Section. He was appointed to the position of Assistant Commissioner of Financial Institutions in 1993 and Deputy Commissioner of Financial Institutions in 2008. He is a native of Richmond and holds an undergraduate degree from the University of Richmond and a M.B.A. from Virginia Commonwealth University.

The Bureau is pleased to announce that Mr. Robert Mednikov has been promoted to the position of Chief Examiner and will report directly to Gerald Fallen. Bob will be responsible for managing the day-to-day activities involving corporate structure, including processing and investigating applications from depository and non-depository institutions, individuals and other business entities for certificates of authority and licenses. A staff of eleven person will report through Bob to Gerald.

Bob began his career at the Bureau in December 1983 as an Economic Investigator in the Corporate Research and Structure Section, and has investigated applications filed by all types of financial institutions supervised by the Bureau. Most recently, Bob was a Manager of Examinations. Bob holds a degree in Economics from Virginia Military Institute.



1300 East Main Street, Suite 800, Richmond, VA 23219