

THE COMPLIANCE CONNECTION

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

2015 VOLUME II



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.

Inside this Issue:

Outsourcing Loan Processing and Underwriting?	1
TILA-RESPA Integrated Disclosure Resources	1
License Renewal Deadline Approaching	2
Sponsorships in NMLS	2
Releasing Mortgage Liens and Potential Liabilities	2
License Update	3
Importance of Updating Primary Company Contact	3
WARNING: MCs and MLOs Subject to Civil Penalties	4

Outsourcing Loan Processing and Underwriting?

Are you now, or are you thinking about outsourcing your loan processing or underwriting to a third party company? In the last year, examiners have seen a growing number of outsourcing agreements. Do you know what your company policies must include in order to stay in compliance in Virginia?

Virginia Regulation 10 VAC 5-160-20 (9) allows a mortgage lender or mortgage broker licensee to outsource its loan processing and underwriting activities to a third party loan processor or underwriter pursuant to a written agreement as long as the mortgage company completes a due diligence review of the third party processor or underwriter prior to entering into an agreement. The written agreement must (1) require the loan processor or underwriter to comply with all applicable state and federal laws and regulations; (2) require the loan processor or underwriter to permit the Commission to investigate or examine its business pursuant to § 6.2-1611 of the Code of Virginia ("Code"); and (3) prohibit the loan processor or underwriter from subcontracting to another person, other than its bona fide employees, any of the services specified in the agreement to be performed on behalf of the mortgage licensee.

A copy of the written agreement must be retained by the mortgage licensee for at least three years after the agreement has been terminated by either party. The mortgage licensee is also responsible for implementing and maintaining a reasonable program to monitor any third party loan processor or underwriter performing services on its behalf. Evidence of compliance with all the above requirements must be provided to the examiner during examinations. Failure to do so will result in a violation of the above referenced regulation and is subject to regulatory action pursuant to §§ 6.2-1622, 6.2-1623 and 6.2-1624 of the Code. Companies whose agreements do not comply with the items listed above are in violation of the Regulation and should not continue to do business with the third party service provider until the written agreement is amended and brought into compliance.



TILA-RESPA Integrated Disclosure Resources

Have you checked out the CFPB's TILA-RESPA Integrated Disclosure Rule Implementation page? The CFPB developed this page to provide useful resources to help you comply with the new rule – Compliance Guide, Guide to Forms, Closing Fact-sheet, Disclosure Timeline, and many more. The site also provides recordings of webinars produced to address implementation of the new rule and the Freddie Mac and Fannie Mae common industry dataset that supports implementation of the rule. Check out the site at: <http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>

License Renewal Deadline Approaching

Are your sponsored MLOs on track to obtain renewal on time? The Nationwide Mortgage Licensing System (“NMLS”) 2016 Renewal Process began November 1st and ends December 31st.

By now, Virginia licensed MLOs completed (or will soon complete) the continuing education (“CE”) hours required for their license renewal. The education requirements include three hours relating to federal law and regulations, two hours related to ethics (fraud, consumer protection fair lending issues), and two hours of training related to the nontraditional mortgage market. Once the CE is completed, MLOs must check to make sure their record is up to date in NMLS and if not, make the necessary amendments to the record. Once all this is complete, the MLO can complete the attestation and submit the renewal request.



Please complete this process by December 12, 2015 to help ensure renewal by December 31, 2015. Renewal requests submitted after December 12 are at risk of not obtaining renewal by the end of the calendar year.

Sponsorships in NMLS

Licensed mortgage companies should submit sponsorship requests for an MLO once the MLO is employed by the company, not before their first day on the job. To be eligible to take Virginia mortgage loan applications or offer to negotiate terms, the MLO is required to be “sponsored” in NMLS. The sponsorship denotes that an MLO’s licensed activities are appropriately supervised by his or her employer.

Releasing Mortgage Liens and Potential Liabilities

Section 55-66.3 of the Code of Virginia (“Code”) provides requirements for the timely release of liens upon payment and a monetary forfeiture if the release is not done within the required time frame. After full or partial payment or satisfaction of a debt secured by a deed of trust, the above referenced statute requires the lien creditor to issue a certificate of satisfaction or certificate of partial satisfaction in a form sufficient for recordation reflecting the payment and release of the lien. This requirement also applies to a credit line deed of trust prepared pursuant to § 55-66.2 of the Code only when the obligor (borrower) or the settlement agent has paid the debt in full and requested that the instrument be released. The statute further states the certificate must be delivered within 90 days after payment to the appropriate clerk’s office with the necessary fee for recording by certified mail, return receipt requested, or by hand delivery or by courier (if there is written proof of receipt by the clerk’s office). In cases where the settlement agent asks that the certificate be sent to them for recordation, the lien creditor has to provide the certificate within 90 days after receipt of the notice, to the settlement agent at the address identified on the notice received from the settlement agent. “Lien creditor” and

“creditor” are synonymous and mean “the holder, payee or obligee of a note, bond or other evidence of debt and shall embrace the lien creditor or his successor in interest as evidenced by proper endorsement or assignment, general or restrictive, upon the note, bond or other evidence of debt.”

Failure to meet these deadlines can be very costly. If the lien creditor has not, within 90 days after payment of the lien, either provided the certificate of satisfaction to the settlement agent or delivered it to the clerk’s office with the necessary fee for filing, the lien creditor shall forfeit \$500 to the lien obligor (borrower). If the amount forfeited is not paid, the lien obligor (borrower) can send a written demand for payment to the lien creditor and if the forfeited amount is not paid within 10 business days after receipt of the written demand for payment, the lien creditor is also responsible for any court costs and reasonable attorney fees incurred by the obligor (borrower) in collecting the forfeiture. In addition to the \$500 forfeiture, violations of Section 55-66.3 of the Code may result in regulatory action pursuant to §§ 6.2-1623 and 6.2-1624 of the Code.



License Update

The following is a list of companies and individuals that have been barred, had their license revoked, had an application denied, or paid a fine or civil penalty since May 11, 2015. This list should be helpful to keep track of companies or individuals with which you do business. These lists are accurate as of October 13, 2015. Call the Bureau if you have a question concerning a recent denial or regulatory action taken by the Commission.

Settlement Orders

MC – 5263 Crystal Funding, LLC – order entered May 11, 2015. Paid \$500 for violation of § 6.2-1604 of the Code of Virginia.

MC – 2954 New Day Financial, LLC d/b/a NewDay USA – order entered June 5, 2015. The Commission approved and accepted a multi-state Settlement Agreement and Order between the licensee and various state mortgage regulatory agencies.

MC—4526 Action Mortgage LLC — order entered July 8, 2015. Paid \$500 for violation of § 6.2-1604 of the Code of Virginia.

MLO – 17878 Matthew Kent Rogers – order entered on September 21, 2015. Surrendered his MLO license in lieu of suspension of license and payment of a civil penalty for allegedly failing to obtain Commission approval prior to engaging in the business of a mortgage loan originator, in violation of § 6.2-1701 of the Code of Virginia.

Mortgage Company Revocations

MC — Sentrif Financial Services, Inc.—order entered May 19, 2015 for various violations of the Code of Virginia including §§ 6.2-406 A 2 and A 3; 6.2-1607 A; 6.2-1614 (1) and (8)(b); 10 VAC 5-160-20 (7) and (9); and 10 VAC 5-160-60 A 2 of the Commission’s Rules Governing Mortgage Lenders and Brokers; and 12 CFR §§ 1024.7 (d) of the Real Estate Settlement Procedures Act.

MC – 3458 Anchor Mortgage, LLC – order entered June 4, 2015. Anchor Mortgage LLC’s sole owner and member, Paul A. Stroble, was convicted of felony conspiracy to commit mail fraud in the United States District Court for the Eastern District of Virginia.

Persons Barred from Employment (pursuant to § 6.2-1620 of the Code of Virginia)

Paul A. Stroble – order entered June 4, 2015 (see MC-3458 above)

Importance of Updating Primary Company Contact

NMLS requires companies licensed through the NMLS to designate a “Primary Company Contact” on the MU-1. The primary company contact must be authorized to receive all compliance and licensing information, communications, and mailing regarding the entity, officers, directors, and individuals. They must also be responsible for disseminating this information within the applicant or licensee’s organization. The contact employee is for regulator use.

The Bureau will send all correspondence to the primary company contact, including Reports of Examinations, updates and notices, newsletters, and other correspondence. This person is also the first point of contact for the Bureau should we need to call to obtain company information. It is imperative that all licensees make sure the person listed as the primary contact is up to date in order to ensure proper notification of important compliance and regulatory information.



WARNING: MCs and MLOs Subject to Civil Penalties

Licensed mortgage companies must ensure that all employed mortgage loan originators (MLOs) who take applications for or offer to negotiate terms of a residential mortgage loan (secured by Virginia real property) are properly licensed prior to any such activity. Mortgage company licensees may be subject to civil penalties of up to \$2,500 for each violation, pursuant to § 6.2-1624 of the Code. The Commission may also impose a civil penalty of not more than \$2,500 per violation upon any individual required to be licensed as an MLO under Chapter 17 of Title 6.2, if it is determined that the individual has taken applications or offered to negotiate terms of a residential mortgage loan on Virginia real property without first applying for and obtaining a license from the Commission (Ref. § 6.2-1719 of the Code of Virginia).

IMPORTANT COMMISSION TELEPHONE NUMBERS



Non Depository Supervision (mortgage examinations)	(804) 371-9701
Licensing (applications, name changes, relocations)	(804) 371-9690
Consumer Complaints	(804) 371-9657
Depository Supervision (banks/credit union exams)	(804) 371-9704
Corporate Information – Clerk's Office	(804) 371-9733
FAX Number - Bureau of Financial Institutions	(804) 371-9416



**Bureau of
Financial Institutions**
VIRGINIA STATE CORPORATION COMMISSION

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