Spring 2003

The Compliance Connection

Regulatory News for Virginia Mortgage and Consumer Finance Licensees
State Corporation Commission -- Bureau of Financial Institutions

The Compliance Connection is published quarterly and is part of the Bureau's efforts to improve communication with the companies we regulate. It is distributed to Virginia mortgage, consumer finance, industrial loan and non-profit debt counseling agency licensees, and other interested parties. It is the licensee's responsibility as a Virginia mortgage licensee 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, Virginia 23218-0640 or via e-mail at: nwalker@scc.state.va.us.

Special thanks to Susan Hancock, Todd Rose, Jon Orne and Jane Owen for their contributions to this issue!

2003 Amendments to the Code of Virginia

The amendments relating to financial institutions made to the Code of Virginia during the 2003 General Assembly are now available on the Bureau's Web site: www.state.va.us/scc/division/banking. Click on "Summary of 2003 Amendments to the Code of Virginia" to find the subject and summary of the bills. By clicking on the bill number, you can view the text of the statute. Italics in the text of the bill represent new language added to the Code while strike-throughs represent language deleted. If you have questions relating to any of the amendments, please consult an attorney. **Nothing contained in the summary should be used as a substitute for the advice of competent counsel.**

The Bureau will mail the 2003 Supplement to the Laws of Virginia Related to Non-Depository Financial Services to each licensee as soon as we receive them from the printer. (We expect them around mid/late September) In the meantime, the above-referenced summary should help you keep up to date with the recent changes. Remember that in general the changes become effective July 1, 2003.

Please note that a summary of the amendments to the Mortgage Lender and Broker Act was provided in the Winter 2003 issue of The Compliance Connection, which is also available on the above Web site.

IN THIS ISSUE:

FTC Guidance on Safeguards Rule:

As part of the Federal Trade Commission's implementation of the Gramm-Leach-Bliley Act, the FTC issued the Safeguards Rule, which went into effect on May 23, 2003. The Rule establishes standards for financial institutions relating to administrative, technical and physical safeguards for consumer information. "Financial institutions" include companies that make, broker, or service any type of consumer loans; transfer or safeguard money; prepare individual tax returns; provide financial advice or credit counseling; provide residential real estate settlement services; and collect consumer debts.

Press releases on this rule, issued on May 13 and May 23, 2003, can be found on the FTC's Web site www.ftc.gov under "Newsroom." The Safeguards Rule can be found at http://www.ftc.gov/privacy/privacyinitiatives/safeguards.html.

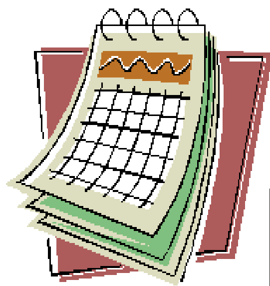
Branch Arrangements

Licensees originating FHA loans need to be aware of HUD's Mortgagee Letter 00-15, which outlines HUD's policy on branch arrangements. You can obtain a copy of this Mortgagee Letter at http://www.hud.gov/offices/hsg/mltrmenu.cfm . Click on "2000 Letters" then document number 00-15 "Prohibited Branch Arrangements."

Please also note that Virginia law generally requires anyone who works for a Virginia licensed mortgage company who is **NOT** a bona fide employee of that licensee, to obtain his or her own license under the Mortgage Lender and Broker Act.

The Bureau will review branch arrangements to ensure that they comply with HUD's policy as well as the Mortgage Lender and Broker Act and regulations promulgated under the Act. A number of questions relating to branch arrangements have been added to our mortgage examination reports. We are also requesting that a copy of all branch agreements or contracts (for branches conducting Virginia business) be provided to the examiner at the time of examination.

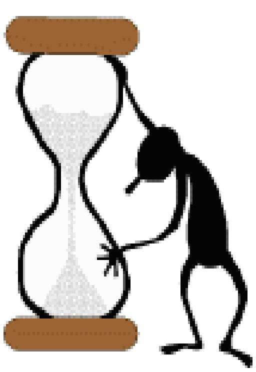
Attention New Mortgage Licensees:



Friday, August 22, 2003 is the date of the next orientation for new mortgage licensees. Companies licensed between April 1, 2003 and June 30, 2003 will receive information about the session. Orientation begins at 9:30 a.m. at our office and concludes around 3:00 p.m. Licensees who were unable to attend previous sessions should also register. Space is limited, but we will make every attempt to accommodate interested parties. Call Carol Foster at (804) 371-9701 to register!

Annual Reports Available

The 2002 Annual Reports for Banks, Credit Unions, Savings Institutions and Trust Companies, along with the supplements for Consumer Finance Licensees, Mortgage Lenders and Brokers, Non-profit Debt Counselors, Industrial Loan Companies, Payday Lenders and Check Cashers are now available on the Bureau's Web site at: www.state.va.us/scc/division/banking/annual.htm.



Delinquent Assessments:

Mortgage licensees who have failed to pay their annual assessment, pursuant to §6.1-420 of the Code of Virginia (which was due on May 25th) are currently listed on the Bureau's Web site (www.state.va.us/scc/division/banking/licreg). Licensees that appear on the list are NOT in good standing with the Bureau. Pursuant to §6.1-425 of the Code of Virginia, failure to pay the annual fee is grounds for license revocation. The continued failure to pay the prescribed fee will result in a recommendation to the Commission that such licenses be revoked. The list will be updated each Friday. If you have questions concerning the assessments, please call Regina Thomas at (804) 371-9693.

Of Donkeys and Decency

By Chris Sander

The following article was reprinted with permission from The Virginia Mortgage Press, the official journal of the Virginia Association of Mortgage Brokers.

There's been a joke going around lately that I'd like to share with you:

It seems that, upon moving to the country, a city boy purchased a donkey from a farmer for $100. The farmer agreed to deliver the donkey the following day, but when he arrived, he brought unfortunate news—the donkey had died. When the boy asked for his money back, the farmer replied, "I can't. I've already spent it." "Well, then at least give me the donkey," the boy retorted. "What are you going to do with it?" The boy replied, "I'm going to raffle it off. I just won't tell anybody that it's dead." A month later, the farmer once again met up with the boy and inquired about the donkey. "I raffled him off," the boy told him. "I sold 500 tickets at $2 apiece and made a profit of $898." Did anyone complain?" asked the farmer. "Just the guy who won," the boy said, smugly. "So I returned his money." That little boy grew up to be the chairman of Enron.

You have to admit, it's a funny joke. Or is it? Over the past several years, I've seen many mortgage loans and schemes that are as strange and fraudulent as the dead donkey raffle. And we wonder why government involvement is becoming more prevalent.

The solution to this problem seems simple: Integrity. Unfortunately, however, some mortgage originators lack this characteristic, which is desperately needed within our industry today.

I realize that may sound like gnarled fingernails running down a chalkboard, but consider that most people—either first-hand or through a friend or relative—have been victims of mortgage fraud. Also, consider that six of the 10 largest corporate bankruptcies in history have occurred within the past year, all involving fraud and deception of their clients. Does this sound like a coincidence? We must change how we conduct our business right now if we are going to survive.

The principal is pretty basic. Deliver what is promised, period. If you tell a borrower that their rate will be "A," then deliver an "A" rate—**no matter what! It's the right thing to do!** Think back to the last loan you wrote, and answer the following questions honestly:

- When you took the application, did you apply the rate based on the lowest monthly payment for the borrower, or was it based upon yield spread?
- Did you then figure what you could charge the borrower in order to make up for any shortage this may have cost you?

If you answered "yes" to either of these questions, you may need to reevaluate your priorities. Now don't get me wrong, anything worth doing is worth doing for a profit. But there's a fine line between making a profit and gouging someone. All I am suggesting is, the next time you sit down to take an application, ask yourself, "Am I doing the right thing, or am I selling a dead donkey?"

Chris Sander is Vice President of Missouri Association of Mortgage Brokers and an executive officer at IMS Mortgage Services LLC. He may be reached by phone at (314) 984-2520 or e-mail imsmortgage@yahoo.com.

Mortgage Broker Common Mistake

Numerous violations are still being found where mortgage broker agreements are not given in accordance with §6.1-422B(4) of the Code of Virginia. In many instances a broker agreement is provided to the borrower, but it does not ***specify*** the fee charged to the borrower at closing. Mortgage brokers must institute procedures to ensure compliance with the above-referenced statute to avoid possible costly reimbursements to borrowers.

The Commission will close for the following state holidays:

Friday, July 4th
Independence Day
Monday, September 1st
Labor Day

Face Elected CSBS Secretary

At the Conference of State Bank Supervisors 102nd Annual Meeting and Conference in Asheville, NC May 28, 2003, Virginia Commissioner of Financial Institutions E. Joseph Face, Jr. was elected Secretary. As CSBS Secretary, Commissioner Face is in the "rotation" of officer chairs and, if rotation holds to form, will become CSBS Chairman in May 2006 at the Annual Meeting to be held at the Williamsburg Lodge, Williamsburg, VA.

Commissioner Attends Supervisors Meeting in D.C.

Commissioner E. J. Face, Jr. traveled to Washington, D.C. March 26-27 to take part in a series of bank regulatory meetings organized by the Conference of State Bank Supervisors (CSBS).

Joe Face, who has served as Virginia's Commissioner of Financial Institutions since July 1997, discussed myriad issues currently facing the nation's banking industry, such as payday lending, predatory lending, privacy, interstate banking and federal preemption of state banking laws.

"Through CSBS, state bank regulatory agencies and state-chartered banks continue to champion a system that offers competitive chartering options, and efficient and effective supervision," Face said.

While in Washington, Commissioner Face joined bank commissioners from other states in meetings with Federal Reserve Chairman Alan Greenspan, Federal Deposit Insurance Corporation Chairman Don Powell, Treasury Department Assistant Secretary for Financial Institutions Wayne Abernathy, House Financial Services Committee Chairman Michael Oxley (R-Ohio) and Ranking Member Barney Frank (D-Mass.), and representatives of the Senate Banking Committee. Sen. Chuck Hagel (R-Neb.), who serves on the Senate Banking Committee, addressed the group at dinner Wednesday evening.

Face noted that the mission of CSBS is to advance and strengthen all state banking departments and to ensure the continued viability of state-chartered banks, which comprise 71 percent of the bank charters nationwide.

CSBS serves the banking industry by optimizing the authority of individual states to determine the activities of their financial institutions, enhancing the professionalism of state banking departments and their personnel, and ensuring that all banks continue to have the choice and flexibility of the state charter in the new era of financial modernization. The organization was founded in 1902.

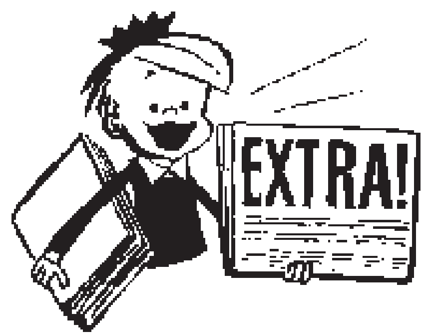
(The Conference of State Bank Supervisors is the professional association of state officials responsible for chartering, supervising, and regulating the nation's 6,000-plus state-chartered commercial and savings banks, and more than 400 state-licensed foreign banking offices nationwide.)

License Update

The following is a list of companies that have surrendered their licenses, had their licenses revoked, had an application denied, or been fined by the Commission since February 15, 2003. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of May 15, 2003. Call the Bureau if you have a question concerning a recent denial, surrender, or regulatory action taken by the Commission. A list of current mortgage licensees is available on our Web site at http://www.state.va.us/scc/division/banking/vamortgagelist.htm.

Mortgage License Surrenders:

MB – 1727 Blue Lake Mortgage Co. – 2/17/03
MB – 1775 Corridor Mortgage Group, LLC – 3/1/03
MB -- 1017 Richard K. Halterman, II d/b/a Prime Financial Services – 3/15/03
MB – 1908 Gulf Coast Mortgage Company, Inc. – 3/24/03
MLB – 681 American Pioneer Financial Services, Inc. d/b/a Lowratesusa.com – 3/31/03
ML – 465 Edward Jones Mortgage, LLC – 4/2/03
MB – 497 Infinity Funding Group, Inc. – 4/7/03
MLB – 866 Revex Mortgage Services LLC – 4/18/03
MLB – 545 Equity Capital Mortgage, Inc. – 4/29/03 – surrendered lender authority only – now licensed as MB – 2194
MB – 1159 Discount Funding Associates, Inc. – 5/1/03
MB – 1634 Frank M. Howard d/b/a Mortgage Solutions – 5/1/03
MB – 1857 First Choice Housing Inc. d/b/a 1st Choice Home Centers – 5/13/03
MB – 1661 Alliance of Savings Klub, Inc. – 5/13/03



Mortgage Applications Denied:

MLB – 863 Royal Crown Bancorp, Inc. – 3/10/03
MLB – 858 Calusa Investments, LLC – 4/21/03

Mortgage Licenses Revoked:

ML – 276 American International Mortgage Bankers, Inc. – 2/20/03 – for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia
MB – 1323 Solomon Russell Lucas, Jr. d/b/a Q Gardens Realty & Associates – 3/14/03 – for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia
MB – 1301 Mortgage Finders of Virginia, Inc. d/b/a Excel Mortgage Bankers – 4/18/03 – for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia

Penalties Paid:

MLB – 841 Prosperity Mortgage Company – 2/27/03 – paid a settlement of $500 for conducting Virginia business from two unlicensed locations, in violation of §6.1-416 of the Code of Virginia
MB – 1706 Challenge Financial Investors Corp. – 3/3/03 – paid a settlement of $10,000 for various violations of the Mortgage Lender and Broker Act
MB – 1401 Washington Home Mortgage, LLC – 4/7/03 – paid a settlement of $2,500 for failing to respond to requests from the Bureau, in violation of 10 VAC 5-160-50

IMPORTANT COMMISSION TELEPHONE NUMBERS

Consumer Finance and Mortgage Examinations ….(804) 371-9701

Licensing (applications, name changes, relocations)…..(804) 371-9690

Consumer Complaints…..(804) 371-9705

Banks and Savings Institutions…..(804) 371-9704

Corporate Information – Clerk's Office…..(804) 371-9733

FAX Number for the Bureau of Financial Institutions…..(804) 371-9416

Bureau of Financial Institutions
1300 E. Main Street, Suite 800
Richmond, Virginia 23219

IMPORTANT REGULATORY INFORMATION ENCLOSED!