



The Compliance Connection

Regulatory News for Virginia Mortgage and Consumer Finance Companies
 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 and industrial loan association 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: nancy.walker@scc.virginia.gov.

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

SCC Seeks Comment On Proposed Regulations: Rules Governing Mortgage Lenders and Brokers:

The State Corporation Commission (SCC) asked for comments on proposed regulations applicable to mortgage lenders and mortgage brokers. The regulations are designed to strengthen consumer protections and clarify Virginia law.

The proposed regulations define various terms, establish restrictions, guidelines and recordkeeping requirements for advertisements used by mortgage lenders and brokers and impose disclosure requirements in connection with advertisements.

Under the proposed regulations, mortgage lenders and brokers would be prohibited from informing a consumer that he or she has been or will be "approved" or "preapproved" for a mortgage loan unless a mortgage lender has issued a written commitment based on a comprehensive analysis of that consumer's creditworthiness.

The proposed regulations also define the terms "subsidiary" and "affiliate" for licensing purposes, and supplement existing written reporting requirements for Virginia-licensed mortgage lenders and brokers. They modify existing regulations regarding lock-in agreements and how mortgage licensees shall conduct business in Virginia.

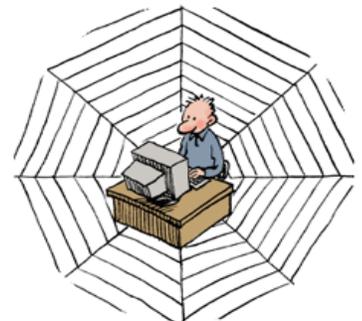
Written comments or requests for a hearing on the SCC's proposed regulations were required by April 15, 2005. The Bureau will keep licensees apprised of further developments. A copy of the SCC's February 11, 2005, order and proposed regulations are available on its website at <http://www.scc.virginia.gov> (click on Case Information, Docket Search and then enter Case No. BFI-2005-00012) or, upon written request, through the Clerk's Office.

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Suggestions Sought for Website Enhancements:

We want to improve our Web site and are interested in your suggestions. Please take a few minutes and browse through our site (www.scc.virginia.gov/division/banking) and let us know how you think we can improve the content and/or organization of the site. Look for the scrolling banner requesting feedback from visitors on the main page of the BFI site. Just click on the banner, type in your thoughts and send!



Notification and Personal Financial Statements Required for New Senior Officers, Directors, Principal Owners

Section 6.1-416 of the Code of Virginia requires that the Commissioner of Financial Institutions be notified, in writing, within ten days of the name, address and position of each new senior officer, member, partner or director. In addition to notification, a "Personal Financial Report and Disclosure Statement" (Form CCB-1123) and an "Employment and Business Affiliation Disclosure Statement" (Form CCB-1150) are required of individuals who meet the following qualifications:

- 1) Any partner or principal owner who owns 10% or more of the company,
- 2) Any senior officer who is not more than three management levels from the Chief Executive Officer, and/or
- 3) Any director who is a paid employee or owns 10% or more of the company stock.

Outside directors who are not paid employees of the licensee or its' parent and do not own 10% or more of the stock of the licensee or its' parent may elect to use the "Limited Personal Financial Report and Disclosure Statement" (Form CCB-1143).

Please be sure to submit the appropriate forms when

notifying the Bureau of new senior officers, members, partners, directors or principal owners. The referenced forms are available on the Bureau's Web site at www.scc.virginia.gov/division/banking (click on "Application Forms" bullet at top of page, then click on the type of application, then click on the appropriate form under "Supplemental Forms"). Original signatures are required on the forms. Personal Financial Report and Disclosure Statements submitted to the Bureau are considered confidential.

Pursuant to HB1777 and Section 6.1-256.1D (effective July 1, 2005), the above requirement will also apply to consumer finance licensees.

NOTE: Section 6.1-416.1 of the Code of Virginia prohibits a person from acquiring, directly or indirectly, 25% or more of the voting shares of a corporation or 25% or more of the ownership of any other entity licensed as a mortgage lender and/or broker unless the person has first applied for and received approval from the Commission (see "Acquisition of Control or Mortgage Licensee" article in the Winter 2004 issue of this newsletter for further details).

Electronic Record Retention

The Bureau has received numerous inquiries recently relating to electronic record retention. For consumer finance licensees, please note that Commission approval is required pursuant to Section 6.1-300 of the Code of Virginia if you wish to maintain records in electronic format. Generally, this is permitted as long as the electronic records are readily available for examination. Mortgage lenders and brokers required to be licensed in Virginia must maintain their records in a licensed location. In addition, mortgage brokers storing records electronically need to be aware that they are still required to maintain the **original** contract for compensation (broker agreement). If a licensee is already storing its records in electronic format or is planning to do so in the near future, please notify the Bureau in writing.

Some problems encountered while examining electronic records include (1) documents that were not scanned properly and cannot easily be read and (2) more than one

PDF file per loan. We have examined a few that had a different PDF file for every document. Please keep these things in mind when converting your records to an electronic format.

Licensees should also review the Federal Trade Commission's Safeguards Rule (discussed in previous editions of The Compliance Connection) and/or consult with an attorney knowledgeable in this area to ensure that the manner in which they store their records meets the requirements of the Safeguards Rule.





HB 1777 Signed by Governor

House Bill 1777, which amends several sections of the Consumer Finance Act and adds §6.1-258.1 to the Act was signed by the Governor on March 20, 2005. The bill requires a person to seek approval from the State Corporation Commission prior to acquiring 25 percent or more of the ownership interest in a lender licensed under the Consumer Finance Act. The measure also updates the Act by modifying the contents of the application for licensure, establishing qualifications for principals of new licensees, and requiring licensees to give notice to the Commissioner of Financial Institutions of the opening or closing of offices and of changes in senior officers, members, partners, and directors. These changes go into effect on July 1, 2005. To see the full text of the bill, go to: <http://legis.state.va.us> and type in HB 1777.

Surety Bond Claims

- MB – 1850 Millennium Lending Group, Inc. — \$9,919.08 claim paid 9/13/04 – company surrendered license 2/9/04
- MB – 1671 Coast to Coast Home Equity Corp. — \$4,114.00 claim paid 11/9/04
- MB – 1767 Center Street Mortgage, LLC — \$551.00 claim paid 12/21/04 – license surrendered 10/14/04
- MB – 1934 PowerPlus Mortgage, Inc. — \$25,000 claim paid 1/14/05 – license revoked 12/17/04
- MB – 2031 Main Street Mortgage, LLC — \$2,099.38 claim paid 2/1/05 – license revoked 10/8/04

Since the middle of 1998, Bureau staff filed bond claims (pursuant to §6.1-413 of the Code of Virginia) against mortgage licensees totaling \$138,971.36. The payments received are forwarded to borrowers and reflect the amounts they were overcharged on their loans. This total does not include any claims that may have been filed by and paid to third parties.

Annual Assessments

It's that time of year again...Annual assessments from the Bureau are on the way. By law, the Commission must assess mortgage licensees by April 25 of each calendar year (pursuant to §6.1-420 of the Code of Virginia) and must assess consumer finance licensees by May 1 of each calendar year (pursuant to §6.1-299.1 of the Code of Virginia). All fees must be paid by mortgage licensees by May 25 and consumer finance companies must pay by June 1. The fees defray the costs of examination, supervision, and regulation of the entities that the Commission regulates and are calculated in accordance with a schedule set by the Commission. Failure to submit payment of the annual assessment by the due date can result in regulatory action (i.e.: fine or revocation of license) pursuant to §§6.1-260 and 6.1-309 of the Consumer Finance Act or §§6.1-425 and 6.1-428 of the Mortgage Lender and Broker Act.



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 November 15, 2004. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of February 15, 2005. 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 www.scc.virginia.gov/banking/mortgagelist.htm.

Mortgage Licenses Surrendered

- MLB – 882 Mortgage Virginia, LLC – 11/15/04
- MLB – 775 Nationwide Financial Corp. – SURRENDERED ITS LENDER AUTHORITY ONLY 11/15/04 – NOW LICENSED AS MB – 2802
- MB – 615 AllStar Mortgage Company – 11/16/04
- MB – 1836 Mobility Financial LLC d/b/a Partnersfirst Mortgage – 11/19/04
- ML – 476 RateOne Home Loans, LLC – 11/29/04
- MB – 2247 Morrison Capital Corporation – 12/14/04
- ML – 158 Olympia Mortgage Corp. – 12/29/04
- MB – 2317 North Nations Mortgage Corp. – 12/31/04
- MB – 1530 American Mortgage Residential, Inc. – 12/31/04
- MB – 907 Valley Acceptance Corporation – 12/31/04
- MLB – 871 The Mortgage Centre, Inc. – SURRENDERED ITS LENDER AUTHORITY ONLY 1/19/05 – NOW LICENSED AS MB – 2937
- MLB – 1046 Frontline Lending Corporation – SURRENDERED ITS LENDER AUTHORITY ONLY 1/20/05 – NOW LICENSED AS MB – 2881
- MB – 2359 FlatFee Home Loans, Inc. – 1/25/05
- MB – 2495 The Merion Group, LC – 1/27/05
- MB – 2422 Haworth & Associates, Inc. (used in VA by International Mortgage Company, Inc.) – 1/28/05
- MB – 1717 Kenneth L. Daniel d/b/a American Mortgage Center — 2/9/05
- MLB – 898 Presidential Mortgage Corporation of Rhode Island (used in VA by Presidential Mortgage Corporation) – SURRENDERED ITS LENDER AUTHORITY ONLY 2/10/05 – NOW LICENSED AS MB - 2901
- MB – 1437 Southland Log Homes Mortgage Company, LLC – 2/14/05 - NOW LICENSED AS MB - 2915
- MB – 2039 Prime Properties of NC, Inc. d/b/a Durham Mortgage Co. - 2/15/05

Mortgage Licenses Denied

- MB – 2390 JGT Group, Inc. – 11/18/04
- MLB – 1070 HCG North America, LLC – 12/29/04

Mortgage Licenses Revoked

- MB – 1027 Mortgage Specialist, Inc. – 12/17/04 – for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia
- MB – 1934 PowerPlus Mortgage, Inc. – 12/17/04 – for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia

Fines Paid by Mortgage Licensees

The following licensees entered into settlements with the Commission for failing to file the annual report by March 1, 2005, as required by §6.1-418 of the Code of Virginia:

- MLB – 989 1st American Banc Corporation - \$800 paid 1/10/05
- MB – 2188 360 Enterprises, Inc. - \$800 paid 1/10/05
- MB – 2156 BancFinancial Mortgage, Inc. - \$500 paid 1/10/05
- MB – 2030 Global Mortgage, Inc. - \$500 paid 1/10/05
- MB -- 1415 Jin K. Chang d/b/a T & B Mortgage Enterprises - \$500 paid 2/1/05
- MB – 2094 Montgomery Capital Mortgage Corporation used in VA by Montgomery Capital Corporation - \$800 paid 1/10/05
- MLB – 100 Mortgage Credit Corporation - \$500 paid 1/10/05
- MLB – 233 Wall Street Mortgage Corporation - \$800 paid 1/10/05
- MB – 620 Comfort Mortgage, Incorporated - \$500 paid 1/10/05

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Other Fines Paid

Anthony Robert Scardeletti – paid \$1,000 on 1/10/05 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Washington Capitol Financial Corp. (MB – 1701)

Joseph J. Iacobelli – paid \$1,000 on 1/10/05 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Premier Mortgage Group, LLC (MLB – 991)

Brian Maller – paid \$1,000 on 1/31/05 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Anderson Home Mortgage Corporation (MB – 1451)

Fax Fees Prohibited for Payoff Statements

Section 6.1-330.82 of the Code of Virginia requires that a written statement of the payoff amount be mailed or delivered to the property owner or his designee within ten (10) business days of the receipt of a written request for such payoff information. A request for payoff information may be made once within a twelve month period *without charge*. A charge not to exceed \$15.00 may be imposed for each additional request made within the twelve month period. The law does not allow for any other charges to be imposed. For example, fax fees or charges to expedite delivery of payoff information are not allowed and will be cited as overcharges. The holder of the obligation cannot charge for the mode of transportation of payoff information.



DMV Law Changes re: Copying Driver's Licenses

In the Fall 2003 issue of this newsletter, we told you about §46.2-346 of the Code of Virginia that required persons photocopying driver's license to first obtain permission from the Division of Motor Vehicles. Effective July 1, 2004, this statute was amended to eliminate the requirement to obtain prior permission. Section four of this statute now reads "No person shall...reproduce by photograph or otherwise, any driver's license,

temporary driver's permit, learner's permit or special identification card issued by the Department with the intent to commit an illegal act."



Violation Trend:

While reviewing the truth-in-lending disclosure, the examiners have found a growing number of instances where the disclosures concerning the payment schedule, total of payments, demand feature, prepayment penalty, late payment, security interest, and assumption policy have not been provided to the applicant as required by Regulation Z §226.18.

Please review the disclosure requirements for Regulation Z with your staff and adjust or implement necessary compliance policies and procedures to ensure compliance in future transactions.

IMPORTANT COMMISSION TELEPHONE NUMBERS

Consumer Finance and Mortgage Examinations(804) 371-9701

Licensing (annual reports, 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



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IMPORTANT REGULATORY INFORMATION ENCLOSED!