
The Compliance Connection

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

Winter 2001



INSIDE THIS ISSUE:

NHEMA vs. Face et al.....	1
Annual Report Deadlines.....	1
Frequently Asked Question.....	2
SCC & Consumer Protection Week.....	2
Helpful Websites.....	3
Information Required on Mortgage Exams.....	4
Licensee Update.....	4 - 5

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. We encourage you to read each newsletter and distribute the information to all staff members.

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@sc.state.va.us.

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

NHEMA vs. Face, Hancock & Early:

In our October 1999 issue of this newsletter, we reported a ruling in the case of NHEMA v. Face, Hancock, and Early. The United States District Court for the Eastern District of Virginia had entered a permanent injunction against Commissioner of Financial Institutions E. J. Face, Jr., Deputy Commissioner Susan Hancock and the Attorney General of Virginia prohibiting them from enforcing the limitation in Virginia's prepayment penalty laws against licensed mortgage lenders that entered into so-called "alternative mortgage transactions" in compliance with regulations of the Office of Thrift Supervision. The trial court's ruling was based upon its view of the preemptive effect of a federal law known as the Alternative Mortgage Transaction Parity Act of 1982.

Commissioner Face, Deputy Commissioner Hancock and the Attorney General appealed the case to the United States Court of Appeals for the Fourth Circuit. That Court heard oral argument in the case and has now affirmed the ruling of the District Court. Whether or not the appeal should be pursued is under consideration. In the meantime, the Bureau will continue to assure conformity with Virginia prepayment penalty laws in connection with non-alternative mortgage loan transactions.

Annual Report Deadlines Approaching:

March 1, 2001 is the deadline for receiving completed mortgage annual reports. Annual reports for consumer finance licensees are due on April 1, 2001. After these dates, the Bureau has until April 25, 2001 to send out the mortgage assessments and May 1, 2001 for consumer finance licensees. Assessments are used to defray the cost of examination, supervision and regulation of consumer finance and mortgage licensees and are based on a schedule set by the Commission. The schedules prescribing annual fees for consumer finance licensees can be found in Virginia Administrative Code 10VAC 5-60-60. For mortgage licensees, the schedule is found in 10 VAC 5-160-40. Mortgage licensees' annual fees are due by May 25, 2001 and consumer finance annual fees must be paid by June 1, 2001.

Reference: Code of Virginia §§6.1-299.1 and 6.1-301 of the Consumer Finance Act and §§6.1-418 and 6.1-420 of the Mortgage Lender and Broker Act.

Frequently Asked Question:

Almost on a daily basis, we receive calls from unlicensed mortgage lenders and/or brokers inquiring about whether they can close “just one loan” without a license. The following Q &A will be added to the “Frequently Asked Questions” section of the Bureau’s web site:



Question: I am a mortgage lender/broker not licensed in the Commonwealth of Virginia, but I have an opportunity to do one Virginia residential mortgage loan. Do I need a license in Virginia to make or broker one loan?

Answer: The answer depends upon whether you will act as a lender in the transaction, or the broker. Pursuant to §6.1-411 of the Code of Virginia, *mortgage lenders* making 10 or fewer mortgage loans in any period of 12 consecutive months are exempt from the licensing requirements and other provisions of the Mortgage Lender and Broker Act. This, however, does not hold true for mortgage brokers. If you act as a broker, you would need a license to originate even one loan. Please note that it is the position of the Bureau of Financial Institutions that the payee named in a mortgage loan note is presumed to be the mortgage lender in that transaction (Reference Administrative Ruling 1601). Please also refer to the definitions under §6.1-409 of the Code of Virginia. The application for a license is available on the web site.

SCC Involved in Consumer Protection Week:

The theme for this year’s National Consumer Protection Week was abusive lending practices. To coincide with National Consumer Protection Week (February 5 – 10) the SCC took a proactive step to encourage consumers to seek out information. Through a press release dated February 2, 2001, the SCC offered tips and reminders to consumers on how to avoid predatory lending practices. Consumers were urged to use caution when dealing with lenders, particularly non-traditional ones such as check cashing outlets, payday loan companies, rent-to-own stores, sub-prime auto lenders, pawn shops and high cost mortgage companies.

Consumers were reminded that the best protection against predatory loans lies with borrowers themselves, and the best time to avoid an abuse is before a borrower signs loan papers. It is important for consumers to educate themselves and shop around before borrowing. Consumers should ask questions; understand the terms of the loan; view solicitations with caution; seek advice; and consider the entire cost of the loan, not just the size of the monthly payment. They should also know the lender or broker with whom they plan to do business.

The press release suggested consumers may want to check out the mortgage licensee list on the Bureau’s web site (www.state.va.us/scc/division/banking) to see if the mortgage lender or broker with whom they are dealing is licensed in Virginia.

The press release is available on the SCC’s web site (www.state.va.us/scc) under “News Releases”. You can visit the National Consumer Protection Week web site at <http://www.consumer.gov/ncpw/>.

Helpful Mortgage Websites:

Federal Trade Commission: www.ftc.gov

To access the list of Consumer Education, Business Education and Rules and Acts topics available on this web site, click on the “News Releases, Publications & Speeches” title. This site is user friendly and provides a lot of useful information. Some of the topics in the Consumer Education section include: 66 Ways to Save Money, Cancellation of Private Mortgage Insurance, Cosigning a Loan, Credit Repair, High-Rate High-Fee Loans (Section 32), Home Equity Credit Lines, Mortgage Discrimination, Pay Day Loans = Costly Cash, Refinancing Your Home, and many others. The Business Education section provides guidance for Complying with the Credit Practices Rule, Getting Business Credit, and How to Advertise Consumer Credit, among others. Some of the topics under “Rules and Acts” include the Equal Credit Opportunity Act, Fair Credit Reporting Act, Home Ownership and Equity Protection Act, and the Truth in Lending Act. There is also a link to file an online complaint.



Housing and Urban Development: www.hud.gov

To get information on the Real Estate Settlement Procedures Act, click on “Library” under Resources (in the left-hand column). This will give you a list of “bookshelves” and a description of the items you can access. “Bookshelf #4: Housing” provides a list of HUD-approved lenders, mortgagee letters, RESPA information, housing reports and more about single and multi-family housing. You can access a page specifically designed for lenders, bankers and others associated with mortgage loans by selecting “Lenders” under the Housing Industry’s “Just for You” headline.

Board of Governors of the Federal Reserve System:

www.federalreserve.gov

This site provides information on Publications (Reports to Congress, Brochures, Federal Reserve Bulletin Articles, Surveys & Reports), Press Releases, Consumer Information, Research & Data, Monetary Policy and much more.

And last but not least, our website : www.state.va.us/scc

At the SCC’s home page, click on “Divisions” and then “Financial Institutions” to get to the Bureau’s portion of the web site. Information on Laws & Regulations, application forms, a list of licensed mortgage lenders and brokers, newsletters (current and past issues) and frequently asked questions are available on this site. It also has a link to contact key Bureau staff.

Additional Information Required on Mortgage Examination Reports:

Recently, changes were made to the "Mortgage Loan Data" page of the mortgage Officer's Questionnaire. Licensees are now asked to provide information regarding the percentage of loans subject to the Home Ownership and Equity Protection Act (Section 32 of Regulation Z). The change was made to allow the Bureau to track the number of Section 32 loans made or brokered by our licensees and lending trends in this area. Please make whatever adjustments are necessary to your record keeping procedures to ensure this information is available during your examination.

Attention New Mortgage Licensees:

Friday, May 18, 2001 is the date of the next orientation for new mortgage licensees. Companies who are licensed between January 1, 2001 and March 31, 2001 will receive information about the session. Orientation begins at 9:30 a.m. at our office and concludes around 4:00 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!



License Update:

The following is a list of companies who have surrendered their license, had their license revoked, application denied or been fined by the Commission **since October 20, 2000**. We hope the list is helpful in keeping track of companies with which you do business. **These lists are accurate as of February 15, 2001**. Call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission.

MORTGAGE LICENSES SURRENDERED SINCE OCTOBER 20, 2000

MLB – 31 General Mortgage Services, Inc. – 10/24/00	ML – 343 HomeSpace Services, Inc. – 12/20/00
MB – 1567 Central Mortgage & Finance, LLC – 10/31/00	ML – 58 ContiMortgage Corporation – 12/21/00
MLB – 575 First Financial Funding Group, Inc. (used in VA by First Financial Funding Group) – 11/6/00	MLB – 611 First Financial, Inc. d/b/a E-Jumbo – 12/21/00
ML – 395 PrimeSource Financial, LLC – 11/16/00	MLB – 582 American Skycorp, Inc. – 12/22/00
ML – 324 The Mortgage Factory, Inc. (used in VA by Resource One, Inc.) – 11/16/00	MB – 576 American Financial Group, Inc. – 12/26/00
ML – 258 Wholesale Mortgage, Inc. – 11/27/00	MB – 814 LFS Mortgage Corporation – 12/27/00
MLB – 650 iOwn, Inc. d/b/a iOwn.com – 11/27/00	MB – 1267 Kochummen K. Thomas d/b/a A-1 Realty Mortgage Company – 12/29/00
ML – 410 Gulfstream Financial Services of Oklahoma, Inc. – 12/4/00	ML – 260 Associates Financial Services Company of Tennessee, Inc. – 12/31/00
MLB – 197 Mortgage Service Center, Inc. – SURRENDERED LENDER AUTHORITY ONLY – NOW MB – 1686 – 12/4/00	ML – 262 Associates Mortgage Services of America, Inc. (used in VA by Associates Financial Services of America, Inc) – 12/31/00
MB – 1268 Stephanie K. Crabtree t/a Emerald Financial – 12/13/00	(continued on next page...)

MORTGAGE LICENSES SURRENDERED (continued)

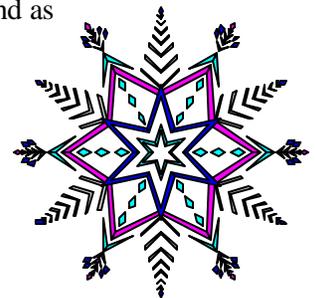
ML – 22 Associates Financial Services of America, Inc. – 12/31/00	MB – 604 Rock Creek Mortgage Corporation – 1/19/01
ML – 347 Mortgage.Com, Inc. – 12/31/00	MLB – 463 RBO Funding, Inc. t/a Loan Aid – 1/19/01
MB – 900 Charles Lee Tighe d/b/a First Coastal Mortgage – 12/31/00	ML – 382 AmeriCredit Corporation of California d/b/a AmeriCredit Mortgage Services – 1/25/01
MB – 1254 Trust Mortgage Corporation – 12/31/00	MB – 1142 Abbey Mortgage and Financial Services, Inc. d/b/a Abbey Mortgage – 2/05/01
MB – 851 Main Street Mortgage and Investment Corporation – 1/1/01	ML – 334 Lendex, Inc. – 2/9/01
ML – 404 Paragon, Inc. – 1/16/01	
MB – 1387 HomeStar, Inc. – 1/19/01	

MORTGAGE LICENSE REVOCATIONS SINCE OCTOBER 20, 2000

- MB – 1480 Veterans Choice Mortgage, Inc. – 11/9/00 – fr failure to maintain a surety bond as required by §6.1-413 of the Code of Virginia
- MB – 781 TFC Financial Group, Inc. – 11 9/00 – for failure to maintain a surety bond as required by §6.1-413 of the Code of Virginia
- MLB – 276 ComStar Mortgage Corporation – 12/18/00 – for failure to maintain a surety bond as required by §6.1-413 of the Code of Virginia and for failure to pay the annual fee required by §6.1-410
- MLB – 180 United Mortgagee, Inc. -- 12/18/00 – for failure to maintain a surety bond as required by §6.1-413 of the Code of Virginia and for failure to pay the annual fee required by §6.1-410
- MLB – 601 Landmark Financial Services, Inc . – 2/12/01 – for failure to maintain a surety bond as required by §6.1-413 of the Code of Virginia

PENALTIES PAID BY MORTGAGE LICENSEES SINCE OCTOBER 20, 2000

- MLB – 258 First Guaranty Mortgage Corporation – 2/12/01 – Paid \$300 for failure to obtain approval prior to the relocation of an office
- MB – 776 TM Mortgage Corporation – 2/9/01-- Paid \$5,000 for various violations of the Mortgage Lender and Broker Act

**OTHER PENALTIES PAID SINCE OCTOBER 20, 2000**

- Stewart D. Sachs – 12/18/00 paid \$1000 for failure to obtain Commission approval prior to acquiring stock of Fidelity First Lending, Inc. (MLB – 655)
- Benjamin M. Lyons -- 12/18/00 paid \$1000 for failure to obtain Commission approval prior to acquiring stock of Fidelity First Lending, Inc. (MLB – 655)
- First National Home Finance Corporation – 2/12/01 paid \$1000 for failure to obtain Commission approval prior to acquiring stock of Lendex, Inc. (ML – 334)

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
State Corporation Commission
P.O. Box 640
Richmond, Virginia 23218-0640**

**IMPORTANT REGULATORY
INFORMATION ENCLOSED!!!**