

# THE COMPLIANCE CONNECTION

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

2016 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](mailto:bfquestions@sc.virginia.gov).

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## 2016 Session of General Assembly - Mortgage Bills Passed

Four bills relating to mortgage lenders, mortgage brokers, and mortgage loan originators were passed during this year's session of the General Assembly and signed by the Governor. Below is the summary of each mortgage related bill, which was obtained from the website for Virginia's Legislative Information System (<http://lis.virginia.gov/lis.htm>) where you can also obtain the entire bills, which we suggest you review. The revisions go into effect on July 1, 2016. If you need additional information on this new legislation, please contact your company's legal counsel.

### HB 123 Real estate loans; disclosure of terms of mortgage application.

Deletes the requirement that a residential mortgage lender's or broker's disclosure statement state that all the loan terms not legally locked in are subject to change until settlement and qualifies the requirement to describe when the interest, points, and fees will be locked in. The measure will conform disclosure statement requirements to a federal rule that, effective October 3, 2015, requires that closing disclosures that reflect the actual loan terms be provided to the consumer no later than three business days before consummation of the loan.

### HB 124 Mortgage lenders and mortgage brokers; licenses, reports.

Provides that mortgage company and branch licenses issued by the State Corporation Commission expire at the end of each calendar year, unless renewed. The measure provides a process for license renewals and the reinstatement of a mortgage lender or mortgage broker whose license has expired. The measure also replaces the annual reporting requirement with a requirement that licensees file periodic reports with the Commissioner of Financial Institutions or the NMLS.

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## Recent Advertising Issues

- Licensees must state their **full** licensed name on advertisements, including the entity type (e.g. XYZ Mortgage **Inc.** vs. XYZ Mortgage). Failing to use the full licensed name is a violation of § 6.2-1614 of the Code of Virginia (and may be subject to civil penalties pursuant to § 6.2-1624 of the Code of Virginia) and could unintentionally lead your customers to other licensees with similar names.
- Licensees will be held responsible if their advertisements contain violations of law or regulation. This includes licensees who use third parties (such as direct marketing companies) to handle their advertising. We have seen a

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## Annual Assessments

Annual assessments were sent via NMLS to all mortgage licensees on April 25, 2016, as required by § 6.2-1612 of the Code of Virginia. The assessment is shown as a deficiency on the company's NMLS record. To obtain the details of the assessment amount owed, you will need to look at the external notes section of the deficiency. Please note -- Companies licensed as both a mortgage lender and a mortgage broker, will only receive one invoice and it will appear as a deficiency on the company's mortgage lender license. This is a change from previous years when two separate bills were attached as deficiencies – one for each license type.

Assessments are calculated based on the schedule published in Virginia Regulation 10 VAC 5-160-40. The anticipated assessment revenue exceeded the Bureau's annual costs needed to cover the cost of mortgage regulation, thus a 50% discount is reflected on the assessment this year.

Assessment payments are due by May 25, 2016 and they can be paid through the NMLS either by ACH or with a credit card. Credit card payments will be assessed a 2.5% service fee by NMLS, which covers the cost NMLS incurs to process the credit card payment.

## Revised Mortgage Company Regulations

The Bureau is in the process of revising the mortgage company regulations (10 VAC 5-160). When the revisions are complete, the Commission will enter an Order to Take Notice (Order) that will be published in the Virginia Register of Regulations. Once the Order is entered, the Bureau will send an email, via NMLS, to all licensees that contains a copy of the Order and the Proposed Regulations. The email will be sent to the person listed in the company's record in NMLS as the *primary contact person*. Licensees will have an opportunity to file written comments and request a hearing. It is imperative that the primary contact person in NMLS is kept up to date and that the Order and Proposed Regulations are forwarded to the person(s) responsible for reviewing and commenting on such documents.

When the Regulations are finalized, an e-mail with the Regulations and the Order Adopting Regulations will be sent to all mortgage licensees in the same manner described above.

## Recent Advertising Issues (continued from page 1)

number of examples where a licensee relied on a marketing company to handle their advertisements then find out that violations exist when the advertisements are reviewed by the Bureau (typically during an examination or after receiving a consumer complaint). Many mortgage company licensees have paid civil penalties for violations resulting from their failure to properly review solicitation letters for compliance with applicable laws and regulations.

- We regularly receive inquiries about whether a mortgage company's or MLO's NMLS ID number has to be included on business cards. Although business cards are sometimes used for advertising purposes, the Bureau considers business cards and stationery to be promotional items like pens, pencils and notepads which are not included in the definition of "advertisement" and therefore, are not required to include the NMLS ID. However, we think it is a good practice to include the NMLS ID, when possible. Mortgage company licensees may set policies that go beyond what the law and regulation require, and include the NMLS ID information on business cards.

## 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 October 13, 2015. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of April 15, 2016. Call the Bureau if you have a question concerning a recent denial or regulatory action taken by the Commission.

### Settlement Orders

- MC – 4186 The Ameican Mortgage Group, LLC d/b/a Zen Loans – order entered November 19, 2015. Paid \$3,000 for violations of §§ 6.2-1614 of the Code of Virginia and 10VAC 5-160-60 of the Commission’s Rules Governing Mortgage Lenders and Brokers.
- MC – 2195 Prospect Mortgage, LLC – order dated January 6, 2016. The State Corporation Commission entered an order accepting a multi-state Settlement Agreement and Consent Order.
- MC – 5546 Hamilton Group Funding, Inc. – order entered January 19, 2016. Paid \$5,000 for violations of 10 VAC 5-160-20 of the Commission’s Rules Governing Mortgage Lenders and Brokers.
- Jeffrey Jivatode – order entered January 29, 2016. Paid \$500 for engaging in the business of a mortgage loan originator without obtaining a license in violation of § 6.2 -1701 of the Code of Virginia.
- MC – 244 Freedom Mortgage Corporation – order dated February 4, 2016. Paid \$17,000 for violations of §§ 6.2-406; 6.2-1614 and 55-66.3 of the Code of Virginia and 10 VAC 5-160-60 of the Commission’s Rules Governing Mortgage Lenders and Brokers.
- Richard J Zelaya – order entered February 24, 2016. Paid \$1,000 for engaging in the business of a mortgage loan originator without obtaining a license, in violation of § 6.2-1701 of the Code of Virginia and agreed to cease and desist from engaging in the business of a mortgage loan originator without a license.
- MC – 4722 American Mortgage Brokers, LLC – order entered March 10, 2016. Paid \$1,250 for failure to timely pay its annual fee due May 25, 2015, in violation of § 6.2-1612 of the Code of Virginia.
- Carlos Rojas — order entered April 13, 2016. Paid \$2,000 for engaging in the business of a mortgage loan originator without obtaining a license in violation of § 6.2-1701 of the Code of Virginia and agreed to cease and desist from engaging in the business of a mortgage loan originator without a license.

### Mortgage Company Revocations

- MC – 3040 Executive Financial Services, Co. Inc. – order dated December 29, 2015 for failure to pay its annual fee due May 25, 2015 as required by § 6.2-1612 of the Code of Virginia.
- IL – 76 Nations Mortgage and Loan Association – order dated March 10, 2016 for failure to pay its annual fee due July 31, 2015 as required by § 6.2 – 1414 of the Code of Virginia.



#### **Important Dates!**

- |                |                                   |
|----------------|-----------------------------------|
| April 25, 2016 | Annual Assessments sent via NMLS  |
| May 25, 2016   | Annual Assessments Due!           |
| July 1, 2016   | Effective date of new legislation |

## 2016 Session of General Assembly—Mortgage Bills Passed

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### HB 125 Mortgage loan originators; inactive licenses.

Authorizes the State Corporation Commission (SCC) to issue an inactive mortgage loan originator license to an individual who has satisfied all requirements for licensure except those pertaining to a MLO's surety bond. Similarly, the measure authorizes the SCC to renew, on an inactive basis, the mortgage loan originator license of an individual who has satisfied all requirements for license renewal except those pertaining to the MLO's surety bond. A licensee with an inactive license is prohibited from engaging in the business of a mortgage loan originator until the SCC determines that the bonding requirements have been satisfied and has updated the MLO's status in the NMLS.

### HB 968 Mortgage lenders and mortgage brokers, licensed; posting license.

Eliminates the requirement that a licensed mortgage lender or mortgage broker prominently post his license in each office of the licensee. The measure requires such a licensee to display proof of licensing upon request and to prominently display at any location where the licensee conducts business in person with a borrower or prospective borrower the telephone number and website address for the State Corporation Commission where borrowers and prospective borrowers may confirm the status of his license.

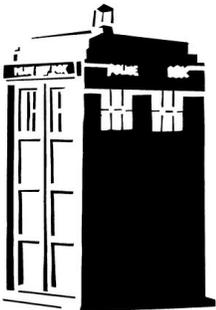
## Surety Bonds:

When submitting a surety bond for your mortgage company to the Bureau pursuant to § 6.2-1604 and 10 VAC 5-161-50, please be sure to:

- Send the ORIGINAL bond documents to the Bureau and
- Include the mortgage company's full name as it appears on the license issued by the Commission.

Doing so will eliminate phone calls and letters notifying you of potential regulatory action!

## IMPORTANT COMMISSION TELEPHONE NUMBERS



Licensing (applications, name changes, relocations)	(804) 371-9690
Non Depository Supervision (mortgage examinations)	(804) 371-9701
Consumer Complaints	(804) 371-9701
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



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