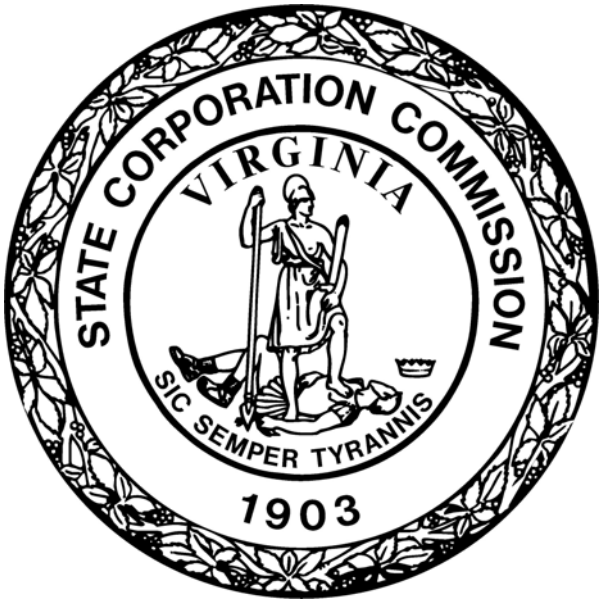
MORTGAGE LICENSEE

REFERENCE GUIDE



VIRGINIA BUREAU OF
FINANCIAL INSTITUTIONS

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1. Schedule of Annual Fees

E. J. FACE, JR.
COMMISSIONER OF
FINANCIAL INSTITUTIONS

COMMONWEALTH OF VIRGINIA

1300 EAST MAIN STREET
SUITE EIGHT HUNDRED
P.O. BOX 640
RICHMOND, VIRGINIA 23218-0640
(804) 371-9657
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www.scc.virginia.gov

STATE CORPORATION COMMISSION
BUREAU OF FINANCIAL INSTITUTIONS

SETTING A SCHEDULE OF ANNUAL FEES
FOR THE EXAMINATION, SUPERVISION
AND REGULATION OF MORTGAGE LENDERS
AND MORTGAGE BROKERS

Pursuant of Virginia Code §6.1-420, the Commission sets the following schedule of annual fees to be paid by mortgage lenders and mortgage brokers required to be licensed under Chapter 16 of Title 6.1 of the Code. Such fees are to defray the costs of examination, supervision and regulation of such lenders and brokers by the Bureau of Financial Institutions. The fees are related to the actual costs of the Bureau, to the assets (i.e., loans) of the lenders, to the volume of business of the brokers, and to other factors relating to supervision and regulation.

SCHEDULE

LENDER LICENSEE:	Minimum fee - $800, plus $6.60 per loan
BROKER LICENSEE:	Minimum fee - $400, plus $6.60 per loan
DUAL AUTHORITY (LENDER/BROKER)	Minimum fee - $1,200, plus $6.60 per loan

The annual fee for each mortgage lender will be computed on the basis of the number of mortgage loans, as defined in §6.1-409, made or originated during the calendar year preceding the year of assessment. The annual fee of each broker will be based on the number of such loans brokered. The annual fee of each lender/broker will be based on the total of mortgage loans made or originated and mortgage loans brokered.

Fees will be assessed on or before April 25 for the current calendar year. By law the fee must be paid on or before May 25.

The annual report, due March 1st each year, of each licensee provides the basis for its assessment, i.e., the number of loans made or brokered. If the annual report of a licensee has not been filed by the assessment date, a provisional fee, subject to adjustment when the report is filed, will be assessed. In cases where a license or additional authority has been granted between January 1 and April 25, one of the following fees or additional fee will be assessed: lender - $400; broker - $200; lender/broker - $600.

Fees prescribed and assessed by this schedule are apart from, and do not include, the reimbursement for expenses permitted by paragraph B of §6.1-420.

2. Virginia Laws Relating to Solicitations/Marketing

Virginia Telephone Privacy Protection Act
Code of Virginia 59.1-510 et. seq.

Use of a name, logo, or symbol of a bank, trust company, savings institution, or credit union.
Code of Virginia 59.1-92.22 (including copies of the referenced Code sections as listed)

Virginia Telephone Privacy Act (unsolicited telemarketing calls)

The Virginia Telephone Privacy Protection Act (VTPPA), Virginia Code §§ 59.1-510 through 59.1-518, provides the following protections against unwanted telemarketing calls to Virginians:

1. prohibits telephone solicitation calls at any time other than between 8:00 a.m. and 9:00 p.m.;
2. requires telephone solicitors to identify themselves by first and last name and by the name of the company for which they are calling;
3. requires telephone solicitors to transmit for caller identification services the number, and when available by the telephone solicitor's carrier, the name of the telephone solicitor;
4. prohibits telephone solicitors from intentionally blocking caller identification services;
5. requires telephone solicitors to play a prerecorded identification message whenever a live sales representative is not available to speak with the person answering the call within two seconds of that person's completed greeting;
6. prohibits telephone solicitors from calling a telephone number when someone at that number has stated that he or she does not wish to receive solicitation calls by or on behalf of the company for which the call is being made;
7. prohibits telephone solicitors from calling a telephone number on the National Do Not Call Registry;
8. permits individuals to sue to enjoin violations, recover damages of $500 for each violation or up to $1,500 for willful violations, and recover their attorneys' fees and court costs;
9. authorizes the Commissioner of the Department of Agriculture and Consumer Services to inquire into possible violations and the Attorney General to issue civil investigative demands; and
10. authorizes the Attorney General, Commonwealth's Attorneys, and attorneys for any county, city, or town to sue to enjoin violations, recover damages for affected citizens of $500 for each violation, recover a civil penalty of up to $1,000 for each willful violation, and recover attorneys' fees and expenses.

Code of Virginia

Title 59.1- Trade and Commerce
Chapter 44 – Virginia Telephone Privacy Protection Act

59.1-510	Definitions
59.1-511	Calling time restrictions
59.1-512	Identification of telephone solicitor required
59.1-513	Transmission of caller identification information required
59.1-513.1	Abandoned telephone solicitation calls
59.1-514	Unwanted telephone solicitation calls prohibited
59.1-515	Individual action for damages
59.1-516	Investigative authority
59.1-517	Enforcement; penalties
59.1-518	Effect on other remedies, causes of action or penalties

Code of Virginia

§ 59.1-510. Definitions.

As used in this chapter:

"Established business relationship" means a relationship between the called person and the person on whose behalf the telephone solicitation call is being made based on: (i) the called person's purchase from, or transaction with, the person on whose behalf the telephone solicitation call is being made within the 18 months immediately preceding the date of the call or (ii) the called person's inquiry or application regarding any property, good, or service offered by the person on whose behalf the telephone solicitation call is being made within the three months immediately preceding the date of the call.

"Personal relationship" means the relationship between a telephone solicitor making a telephone solicitation call and any family member, friend, or acquaintance of that telephone solicitor.

"Telephone solicitation call" means any telephone call made to any natural person's residence in the Commonwealth, or to any wireless telephone with a Virginia area code, for the purpose of offering or advertising any property, goods or services for sale, lease, license or investment, including offering or advertising an extension of credit.

"Telephone solicitor" means any person who makes, or causes another person to make, a telephone solicitation call.

(2001, cc. 528, 553; 2004, cc. 202, 224.)

§ 59.1-511. Calling time restrictions.

No telephone solicitor shall initiate, or cause to be initiated, a telephone solicitation call at any time other than between 8:00 a.m. and 9:00 p.m. local time at the called person's location, unless the telephone solicitor has obtained the prior consent of the called person.

(2001, cc. 528, 553; 2004, cc. 202, 224.)

§ 59.1-512. Identification of telephone solicitor required.

A telephone solicitor who makes a telephone solicitation call shall identify himself by his first and last names and the name of the person on whose behalf the telephone solicitation call is being made promptly upon making contact with the called person.

(2001, cc. 528, 553.)

§ 59.1-513. Transmission of caller identification information required.

A. A telephone solicitor who makes a telephone solicitation call shall transmit the telephone number, and, when available by the telephone solicitor's carrier, the name of the telephone solicitor. It shall not be a violation of this section to substitute (for the name and telephone number used in, or billed for, making the call) the name of the person on whose behalf the telephone solicitation call is being made and that person's customer service telephone number. The number so provided must permit, during regular business hours, any individual to make a request not to receive telephone solicitation calls.

B. No telephone solicitor shall take any intentional action to prevent the transmission of the telephone solicitor's name or telephone number to any person receiving a telephone solicitation call.

(2001, cc. 528, 553; 2004, cc. 202, 224.)

§ 59.1-513.1. Abandoned telephone solicitation calls.

Whenever a live sales representative is not available to speak with the person answering a telephone solicitation call within two seconds of the person's completed greeting, the telephone solicitor shall play a prerecorded identification message that states the name and telephone number of the person on whose behalf the telephone solicitation call was being made. The number so provided shall permit, during regular business hours, any individual to make a request not to receive telephone solicitation calls.

(2004, cc. 202, 224.)

§ 59.1-514. Unwanted telephone solicitation calls prohibited.

A. No telephone solicitor shall initiate, or cause to be initiated, a telephone solicitation call to a telephone number when a person at such telephone number previously has stated that he does not wish to receive a telephone solicitation call made by or on behalf of the person on whose behalf the telephone solicitation call is being made. Such statement may be made to a telephone solicitor or to the person on whose behalf the telephone solicitation call is being made if that person is different from the telephone solicitor. Any such request not to receive telephone solicitation calls shall be honored for at least 10 years from the time the request is made.

B. No telephone solicitor shall initiate, or cause to be initiated, a telephone solicitation call to a telephone number on the National Do Not Call Registry maintained by the federal government pursuant to the Telemarketing Sales Rule, 16 C.F.R. Part 310, and 47 C.F.R. § 64.1200.

C. It shall be an affirmative defense in any action brought under § 59.1-515 or 59.1-517 for a violation of this section that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitation calls in violation of this section, including using in accordance with applicable federal regulations a version of the National Do Not Call Registry obtained from the administrator of the registry no more than 31 days prior to the date any telephone solicitation call is made.

D. For purposes of this section, "telephone solicitation call" shall not include a telephone call made to any person: (i) with that person's prior express invitation or permission as evidenced by a signed, written agreement stating that the person agrees to be contacted by or on behalf of a specific party and including the telephone number to which the call may be placed, (ii) with whom the person on whose behalf the telephone call is made has an established business relationship, or (iii) with whom the telephone solicitor making the telephone call has a personal relationship. The exemption for an established business relationship or a personal relationship shall not apply when the person called previously has stated that he does not wish to receive telephone solicitation calls as provided in subsection A.

(2001, cc. 528, 553; 2004, cc. 202, 224; 2005, c. 296.)

§ 59.1-515. Individual action for damages.

A. Any natural person who is aggrieved by a violation of this chapter shall be entitled to initiate an action to enjoin such violation and to recover damages in the amount of $500 for each such violation.

B. If the court finds a willful violation, the court may, in its discretion, increase the amount of the award to an amount not exceeding $1,500.

C. Notwithstanding any other provision of law to the contrary, in addition to any damages awarded, such person may be awarded reasonable attorneys' fees and court costs.

D. An action for damages, attorneys' fees, and costs brought under this section may be filed in an appropriate general district court or small claims court so long as the amount claimed does not exceed the jurisdictional limits set forth in § 16.1-77 or § 16.1-122.2, as applicable. Any action brought under this section that includes a request for an injunction shall be filed in an appropriate circuit court.

(2001, cc. 528, 553.)

§ 59.1-516. Investigative authority.

A. The Commissioner of the Department of Agriculture and Consumer Services, or his duly authorized representative, shall have the power to inquire into possible violations of this chapter, and to request, but not to require, an appropriate legal official to bring an action under § 59.1-517 with respect to such violation.

B. Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in or is about to engage in any violation of this chapter, the Attorney General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis to civil investigative demands issued pursuant to this section.

(2001, cc. 528, 553.)

§ 59.1-517. Enforcement; penalties.

A. The Attorney General, an attorney for the Commonwealth or the attorney for any county, city or town may cause an action to be brought in the name of the Commonwealth or of the county, city or town to enjoin any violation of this chapter by any person and to recover damages for aggrieved persons in the amount of $500 for each such violation.

B. If the court finds a willful violation, the court may, in its discretion, also award a civil penalty of not more than $1,000 for each such violation.

C. In any action brought under this section, the Attorney General, the attorney for the Commonwealth or the attorney for the county, city or town may recover reasonable expenses incurred by the state or local agency in investigating and preparing the case, and attorneys' fees.

D. Any civil penalties awarded under this section in an action brought in the name of the Commonwealth shall be paid into the Literary Fund. Any civil penalties awarded under this section in an action brought in the name of a county, city or town shall be paid into the general fund of the county, city or town.

(2001, cc. 528, 553.)

§ 59.1-518. Effect on other remedies, causes of action or penalties.

Nothing in this chapter shall be construed to limit any remedies, causes of action or penalties available to any person or governmental agency under any other federal or state law.

(2001, cc. 528, 553.)

Code of Virginia

Title 59.1- Trade and Commerce
Chapter 6.1- Registration and Protection of Trademarks and Service Marks

	59.1-92.1	Short Title
	59.1-92.2	Definitions
	59.1-92.3	Registrability
	59.1-92.4	Application for registration
	59.1-92.5	Filing of applications
	59.1-92.6	Certificate of registration
	59.1-92.7	Duration and renewal
	59.1-92.8	Assignments and changes of name
	59.1-92.9	Records
	59.1-92.10	Cancellation
	59.1-92.11	Classification
	59.1-92.12	Infringement
	59.1-92.13	Remedies
	59.1-92.14	Service on out-of-state registrants
	59.1-92.15	Common law rights
	59.1-92.16	Fees
	59.1-92.17	Commission may consider final judgments
	59.1-92.18	Appeals from final action of Commission
	59.1-92.19	Regulations and forms
	59.1-92.20	Fees to cover expense of regulation
	59.1-92.21	Olympic symbols
****	59.1-92.22	Use of name, logo, or symbol of a bank, trust company, savings institution, or credit union

Code of Virginia

§ 59.1-92.22. Use of name, logo, or symbol of a bank, trust company, savings institution, or credit union.

Any bank, trust company, savings institution, or credit union whose name, logo, or symbol, or any combination thereof, or any name, logo, or symbol, or any combination thereof that is deceptively similar thereto, is used by a person in a manner prohibited by §§ 6.1-119.1, 6.1-194.93:1, and 6.1-225.65, is entitled to the remedies that are available to a registrant under subsection A of § 59.1-92.13.

(2005, c. 240.)

Code of Virginia

§ 6.1-119.1. Use of bank or trust company name, logo or symbol for marketing purposes; penalty.

A. Except as provided in subsection B, no person shall use the name, logo, or symbol, or any combination thereof, of a bank or trust company, or any name, logo, or symbol, or any combination thereof, that is deceptively similar to the name, logo, or symbol of a bank or trust company, in marketing material provided to or solicitation of another person in a manner such that a reasonable person may believe that the marketing material or solicitation originated from or is endorsed by the bank or trust company or that the bank or trust company is responsible for the marketing material or solicitation.

B. This section shall not apply to (i) an affiliate or agent of the bank or trust company or (ii) a person who uses the name, logo, or symbol of a bank or trust company with the consent of the bank or trust company.

C. Any person violating the provisions of this section, either individually or as an interested party, shall be guilty of a Class 1 misdemeanor. This section shall not affect the availability of any remedies otherwise available to a bank or trust company.

(2005, c. 240.)

Code of Virginia

§ 6.1-194.93:1. Use of savings institution name, logo, or symbol for marketing purposes; penalty.

A. Except as provided in subsection B, no person shall use the name, logo, or symbol, or any combination thereof, of a savings institution, or any name, logo, or symbol, or any combination thereof, that is deceptively similar to the name, logo, or symbol of a savings institution, in marketing material provided to or solicitation of another person in a manner such that a reasonable person may believe that the marketing material or solicitation originated from or is endorsed by the savings institution or that the savings institution is responsible for the marketing material or solicitation.

B. This section shall not apply to (i) an affiliate or agent of the savings institution or (ii) a person who uses the name, logo, or symbol of a savings institution with the consent of the savings institution.

C. Any person violating the provisions of this section, either individually or as an interested party, shall be guilty of a Class 1 misdemeanor. This section shall not affect the availability of any remedies otherwise available to a savings institution.

(2005, c. 240.)

Code of Virginia

§ 6.1-225.65. Use of credit union name, logo, or symbol for marketing purposes; penalty.

A. Except as provided in subsection B, no person shall use the name, logo, or symbol, or any combination thereof, of a credit union, or any name, logo, or symbol, or any combination thereof, that is deceptively similar to the name, logo, or symbol of a credit union, in marketing material provided to or solicitation of another person in a manner such that a reasonable person may believe that the marketing material or solicitation originated from or is endorsed by the credit union or that the credit union is responsible for the marketing material or solicitation.

B. This section shall not apply to (i) an affiliate or agent of the credit union or (ii) a person who uses the name, logo, or symbol of a credit union with the consent of the credit union.

C. Any person violating the provisions of this section, either individually or as an interested party, shall be guilty of a Class 1 misdemeanor. This section shall not affect the availability of any remedies otherwise available to a credit union.

(2005, c. 240.)

Code of Virginia

§ 59.1-92.13. Remedies.

A. Any registrant of a mark in force and effect may proceed by suit in a court of competent jurisdiction to enjoin violations of § 59.1-92.12 and/or seek such other remedies as are set forth herein. Any court of competent jurisdiction may grant such injunctions as may by the court be deemed just and reasonable to restrain such violations, and may require any defendant to pay to such registrant all profits derived from and/or all damages suffered by reason of such violations. The court may also order that any material that violates § 59.1-92.12 that is in the possession or under the control of any defendant in such case be destroyed, or delivered to an officer of the court or to the registrant for destruction. The court, in its discretion upon consideration of the circumstances of the case, may award reasonable attorneys' fees to the prevailing party.

B. Any person who knowingly and intentionally violates the provisions of § 59.1-92.12 shall be guilty of a Class 2 misdemeanor and, upon a second or subsequent conviction, shall be guilty of a Class 6 felony.

(1998, c. 819.)

3. Corporate Structure and Research Presentation

WELCOME TO . . .

MORTGAGE ORIENTATION

CCB-8801 (Rev. 01/00)

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION
BUREAU OF FINANCIAL INSTITUTIONS

LICENSE NO. MB-###

THIS IS TO CERTIFY THAT:

ABC, INC. D/B/A XYZ

having met the requirements of law, is authorized to engage in business as a mortgage broker under the provisions of Chapter 16 of Title 6.1 of the Code of Virginia, at or in:

12345 Main Street, Anytown, State 98765

IN WITNESS WHEREOF, *I have set my hand this* date

day of Month , 20## , *at Richmond, Virginia.*

E. J. Face, Jr., Commissioner of Financial Institutions

THIS LICENSE IS NOT TRANSFERABLE OR ASSIGNABLE

This license is to be displayed conspicuously where business is transacted

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION
BUREAU OF FINANCIAL INSTITUTIONS

Date

APPLICATION BY

ABC, INC. D/B/A XYZ **CASE NUMBER: BAN2000####**

For a license to engage in business
as a mortgage broker (and/or lender)

ABC, Inc. d/b/a XYZ, a Virginia corporation, has applied to the State Corporation Commission for a license to engage in the business of mortgage brokering (and/or lending) at 12345 Main Street, Anytown, State 98765. The application has been investigated by the Commission's Bureau of Financial Institutions and meets the criteria in Chapter 16 of Title 6.1 of the Virginia Code.

THEREFORE, under authority delegated by the State Corporation Commission, the license requested in this application is GRANTED provided that the licensee begins business within one year from this date, and the licensee gives written notice to the Bureau of Financial Institutions stating the date business was begun, within ten days thereafter.

_____
E. J. Face, Jr.

ADDITIONAL OFFICE OR RELOCATION

- File application at least 30 days prior to establishing an additional office or relocating a licensed office. Processed within 10 days if compliance and complaint records are good.
- File application with $150 fee
- Notify Bureau in writing within 10 days after office is established or relocated
- All offices which originate or process Virginia loans must be licensed, even if out of state
- All locations where records of Virginia loans are maintained must be licensed

ACQUISITON OF A MORTGAGE LICENSEE

- Commission approval required prior to acquiring directly or indirectly *25 percent or more* of a mortgage licensee
- File application with $250 fee
- Once a person owns 25 percent or more, any subsequent increases in ownership do not require Commission approval. However, written notice within 30 days is still required.

ACQUISITON OF A MORTGAGE LICENSEE (Cont.)

- Notify Bureau in writing within 10 days after acquisition is effective
- Exceptions to application requirement:
  - I. Acquisition by licensee or person exempt from Act
  - II. Acquisition by person affiliated through common ownership with licensee
  - III. Acquisition through inheritance
- Person acquiring ownership interest of a licensee in an exempt transaction must send written notice to Bureau within 30 days of closing

MORTGAGE ANNUAL REPORT

- Reports mailed to licensees in mid-December and are available on the Bureau's Web site
- Section I completed by both mortgage brokers and mortgage lenders
- Section II completed by mortgage brokers
- Section III completed by mortgage lenders
- An authorized officer must complete the affidavit on page 8 and have report notarized
- Annual Report is only for Virginia mortgage business - do not report other types of loans or loans made on properties located outside of Virginia

MORTGAGE ANNUAL REPORT (Cont.)

- Report **must** be filed by **March 1** with original signatures and in duplicate
- In addition, file company financial statements (audited if available) with Bureau's Annual Report. Audited financials may be submitted later under separate cover, but include in-house statements with report
- Mortgage Annual Report, and Annual Report filed with the Clerk of the State Corporation Commission are not the same. Due date of Clerk's Annual Report and fee varies depending on type of entity.

NAME CHANGES

- CORPORATION,
- LLC, or
- LP

- File name change at SCC Clerk's Office, then notify Bureau by letter and return old license(s) after receipt of new license(s)

USE OF ASSUMED NAME

- CORPORATION,
- LLC, or
- LP

- File certificate with local Circuit Court, then file certified copy of certificate with SCC's Clerk's Office.
- Notify Bureau by letter and return old license(s) after receipt of new license(s)

USE OF ASSUMED NAME (Cont.)

- SOLE PROPRIETORSHIP or
- GENERAL PARTNERSHIP

- File change with local Circuit Court, then notify Bureau by letter and return old license(s) after receipt of new license(s)

<u>NO FEE REQUIRED FOR REISSUE OF LICENSES</u>

OTHER NOTIFICATIONS

Written Notification Required

- within 10 days after commencing business
- within 10 days after closing an office
- the name, address and position of each new senior officer, member, partner, or director, within 10 days. Personal financial report and employment history forms should be submitted at the time of notice.

OTHER NOTIFICATIONS (Cont.)

Written Notification Required

- within 15 days of becoming aware of:
  - bankruptcy filing by the licensee
  - denial of license or revocation/suspension proceedings against the licensee by any other state or government authority
  - felony indictment or conviction against licensee, or any of its employees, officers, principals or directors

DEFINITION OF "SENIOR OFFICER"

- - a person who has significant management responsibility within an organization or otherwise has the authority to influence or control the conduct of the organization's affairs, including but not limited to its compliance with applicable laws and regulations

BUREAU INTERNET ADDRESS

www.scc.virginia.gov/division/banking

Information available on the Web site:

- Application Forms and Instructions
- Laws and Regulations
- Annual Report Forms (updated in mid-December)
- Published Annual Reports
- News Letters: "Compliance Connection" . . .
- List of licensed mortgage lenders and brokers
- Contact names, and e-mail addresses of Bureau staff and Section phone numbers

THE END

4. Application for an Additional Office or Relocation of an Existing Office (Form CCB-8809, Rev. 6/06)

APPLICATION FOR AN ADDITIONAL OFFICE OR RELOCATION OF AN EXISTING OFFICE PURSUANT TO THE MORTGAGE LENDER AND BROKER ACT

Bureau of Financial Institutions
1300 East Main Street, Suite 800
Post Office Box 640
Richmond, Virginia 23218-0640

INSTRUCTIONS:
Attach a check for $150 payable to the Treasurer of Virginia. The application fee is not refundable.

Pursuant to Section 6.1-416B of the Mortgage Lender and Broker Act,

_____
(Name and Address of Licensee)

hereby applies to the State Corporation Commission for authority to operate an office at

_____
(Street Address)

_____.
(City or Town) (State) (Zip Code)

If the proposed office will replace an existing office, identify the office being relocated:

_____
(Street Address)

_____
(City or Town) (State) (Zip Code)

Date office to be established/relocated: _____ . If proposed office is already conducting Virginia business, attach explanation. (**Note: For out-of state offices already authorized to conduct business in other states, provide the date <u>Virginia business</u> is to commence**.)

CERTIFICATION

The undersigned certifies that the facts contained in this application are true and that he/she has been duly authorized to file this application.

_____ _____
Name (Type or Print) Signature

_____ _____
Date Title

_____
Telephone Number/E-mail Address

<u>Information about appeals</u>: All applications are investigated by the Bureau of Financial Institutions. Certain application decisions are made by the Commissioner of Financial Institutions under delegated authority from the State Corporation Commission. In the event you wish to appeal either a determination made by the Bureau of Financial Institutions in the course of its investigation of your application or the Commissioner of Financial Institutions' decision on your application, you may request a formal review by the State Corporation Commission in accordance with its Rules of Practice and Procedure (http://www.scc.virginia.gov/commission/rules.htm).

5. Application for Permission to Acquire Control of a Mortgage Lender/Broker Licensee (Form CCB-8808, Rev. 6/06)

APPLICATION FOR PERMISSION TO ACQUIRE CONTROL OF A MORTGAGE LENDER/BROKER LICENSEE PURSUANT TO § 6.1-416.1 OF THE CODE OF VIRGINIA

INFORMATION AND INSTRUCTIONS

This application is required by § 6.1-416.1 of the Code of Virginia. Generally, any person seeking to acquire, directly or indirectly, twenty-five percent or more of the voting shares of a corporation or a twenty-five percent or more ownership interest in any other entity licensed to conduct business under Chapter 16 of Title 6.1 of the Code of Virginia must complete and file this application. Additional information, attachments, and/or documents must be filed on **8 1/2" x 11"** paper.

The following documents must be submitted with the application:

1. A check for $250 payable to the Treasurer of Virginia. The application fee is not refundable.

2. An organizational chart for the applicant, if applicable, showing the title and detailing the duties of each position.

3. A list of the **applicant's directors**, **senior officers** (persons who have significant management responsibility within an organization or otherwise have the authority to influence or control the conduct of the organization's affairs, including but not limited to its compliance with applicable laws and regulations), **members, trustees, partners and principals** (persons who own, directly or indirectly, 10% or more of the applicant) showing the name, title, address and percentage of ownership. An applicant who is an individual need not comply with this item.

4. A list of the **proposed new directors and senior officers of the mortgage lender/broker licensee to be acquired** showing name, title, address and percentage of ownership.

5. A properly executed, current (less than 90 days old) Personal Financial Report and Disclosure Statement form for **each director, senior officer, member, trustee, partner and principal of the applicant** and for **each proposed new director and senior officer of the mortgage lender/broker licensee to be acquired** on form CCB-1123 (Rev. 06/06). **Proposed outside directors** (persons who will not be paid employees of the mortgage lender/broker licensee to be acquired or its parent) may elect to use the limited financial report form CCB-1143 (Rev. 06/06). *The report must be executed with original signature* (s). Personal Financial Report and Disclosure Statement forms are confidential.

6. An Employment and Business Affiliation Disclosure Form, CCB-1150 (Rev.06/06), for each person required to file a Personal Financial Report and Disclosure Statement form.

7. Financial statements of the **applicant** and of **the mortgage lender/broker to be acquired**. Furnish the most recent audited statements, if available, as well as current (less than 90 days old) internal statements. The applicant's financial statement should be filed on form CCB-1123 (Rev. 06/06) if the applicant is an individual.

8. A statement giving details of the nature and scope of the proposed acquisition.

9. A copy of the purchase agreement.

10. A list of at least three business references (preferably from within the mortgage industry) who can attest to the character, reputation, experience, financial responsibility, and general fitness of the **applicant, its directors, senior officers, members, trustees, partners and principals** and of the **proposed new directors and senior officers of the licensee to be acquired**. Each reference listed should include a contact name and title, institution, mailing address, and telephone number.

11. Authorization form(s) CCB-1149 for a reference from a bank or depository institution with which the applicant or its principals, members, partners, or trustees have had a deposit account for at least one year. (Form CCB-1149 and bank references are confidential.)

The Bureau will review the application and accompanying materials for completeness upon receipt. **Applications that are not substantially complete will be returned**. Thus, full and complete answers given at the outset of the application process serve to prevent unnecessary time delays.

As a general rule, documents filed with the Bureau of Financial Institutions become part of the public record. Except as permitted or required by law, the following shall be kept confidential: Personal Financial Report and Disclosure Statements, other documents which disclose personal account information, financial statements for sole proprietors, and information which could endanger the safety and soundness of a depository institution. Upon request, the Bureau will consider for confidential treatment any other documents or portions of the application that the applicant considers of a proprietary and personal nature. The request for confidential treatment must discuss the justification for the requested treatment, specifically demonstrating the harm (for example, loss of competitive position or invasion of privacy) that may result from public release of the information. Information for which confidential treatment is requested should be: (1) specifically identified in the public portion of the application (by reference to the confidential section); and (2) specifically separated and labeled "Confidential". The Bureau will advise the applicant if the request for confidentiality cannot be honored.

To view the entire Confidentiality Policy Statement of the Bureau of Financial Institutions or to download this application form or a related form, visit the Bureau's website at **www.scc.virginia.gov/division/banking**.

Information about appeals: All applications are investigated by the Bureau of Financial Institutions. Certain application decisions are made by the Commissioner of Financial Institutions under delegated authority from the State Corporation Commission. In the event you wish to appeal either a determination made by the Bureau of Financial Institutions in the course of its investigation of your application or the Commissioner of Financial Institutions' decision on your application, you may request a formal review by the State Corporation Commission in accordance with its Rules of Practice and Procedure (http://www.scc.virginia.gov/commission/rules.htm).

Inquiries concerning licensing and the preparation and filing of an application should be directed to the Bureau of Financial Institutions, Post Office Box 640, Richmond, Virginia 23218-0640. Telephone: (804) 371-9690; FAX: (804) 371-9416.

CERTIFICATION

The undersigned, being duly sworn, states that he/she has executed the foregoing application under § 6.1-416.1 of the Code of Virginia; that he/she has authority to execute and file such application; and that to his/her knowledge, information and belief, such application contains no misstatement of a material fact nor omits a material fact called for.

_____
Name (Type or Print)

_____
Signature

Sworn to and subscribed before me this _____day of _____, _____.

_____
Notary Public

APPLICATION FOR PERMISSION TO ACQUIRE CONTROL OF A MORTGAGE LENDER/BROKER LICENSEE PURSUANT TO § 6.1-416.1 OF THE CODE OF VIRGINIA

Bureau of Financial Institutions
State Corporation Commission
1300 East Main Street, Suite 800
Post Office Box 640
Richmond, Virginia 23218-0640

1. The undersigned, _____
(Name and Address of Applicant)

_____,

hereby applies to the State Corporation Commission pursuant to § 6.1-416.1 of the Code of Virginia for permission to acquire direct or indirect ownership, control or power to vote _____ shares (_____%) of the voting stock of, or _____% ownership interest in:

_____
(Name of Mortgage Lender/Broker Licensee)

_____
(Street Address)

_____
(City, State and Zip)

2. The applicant currently holds _____shares (_____%) of the voting stock of, or _____% ownership interest in the company.

3. Has the applicant or any of its affiliates (or former affiliates), principals, directors, officers, members, trustees or partners applied for a license <u>with this Bureau within the last ten (10) years</u>? Yes_____ No_____ If yes, attach complete details of the outcome of the application including dates of approval, denial or withdrawal.

4. Has the applicant or any of its affiliates (or former affiliates), principals, directors, officers, members, trustees or partners ever been refused a license to engage in any business or had any such license suspended or revoked <u>by any state or federal agency</u>? Yes_____ No_____ If yes, attach complete details of the refusal, suspension or revocation.

5. Has any state or federal agency ever initiated a regulatory action or entered an order against the applicant or any of its affiliates (or former affiliates), principals, directors, officers, members, trustees or partners?
Yes_____ No_____ If yes, provide complete details.

6. Inquiries concerning this application should be directed to: (Name, Mailing Address, Telephone Number and E-mail Address)

6. Annual Report (Form CCB-8805, Rev. 11/06)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF FINANCIAL INSTITUTIONS

ANNUAL REPORT OF MORTGAGE LENDERS AND BROKERS FOR THE YEAR ENDING DECEMBER 31, 2006

GENERAL INSTRUCTIONS

Pursuant to Virginia Code Section 6.1-418, every lender and broker required to be licensed under the Virginia Mortgage Lender and Broker Act shall file an annual report, under oath, with the Commissioner of Financial Institutions. Reports covering operations during the preceding calendar year are to be filed not later than **March 1**, by mailing or delivering them to the Bureau of Financial Institutions, 1300 East Main Street, Suite Eight Hundred, Post Office Box 640, Richmond, Virginia, 23218-0640. **The Statute does not provide for extension of the filing period and a penalty may be imposed for late filing**.

The first section of the report is common to both lenders and brokers. Section II should be completed by mortgage brokers and Section III should be completed by mortgage lenders. **Both mortgage lenders and brokers must complete the Affidavit on page eight**.

Unless otherwise stated, the licensee must provide information only about its mortgage activities which come under the Virginia Mortgage Lender and Broker Act. The Act defines a mortgage loan as a loan made to an individual, the proceeds of which are to be used primarily for personal, family or household purposes, which loan is secured by a mortgage or deed of trust upon any interest in one to four family residential owner-occupied property located in Virginia, regardless of where made. Other types of loans, such as commercial loans or loans made on non-Virginia property, are not to be listed unless specifically requested.

A **consolidated financial statement** of the licensee (balance sheet and income statement), reflecting the true financial condition of the licensee from all operations conducted in Virginia and elsewhere, regulated and unregulated, is to be attached to this report. The balance sheet should detail assets and liabilities while the income statement should detail income and expenses. Sole proprietors should submit a balance sheet and income statement for the mortgage business only. Financial statements should not be more than three (3) months old. If the licensee does not have an independent audit, it may submit current internal unaudited financial statements.

The annual report and financial statement of the licensee must be filed in duplicate. Please follow the instructions carefully. Incomplete or inaccurate reports cannot be accepted for filing and will be returned. If space provided is insufficient, continuations on 8 1/2" by 11" paper may be added.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF FINANCIAL INSTITUTIONS
ANNUAL REPORT OF MORTGAGE LENDERS AND BROKERS

Bureau of Financial Institutions
1300 East Main Street, Suite 800
Post Office Box 640
Richmond, Virginia 23218-0640

FILE IN DUPLICATE

SECTION I

GENERAL INFORMATION

1. Name and mailing address of licensee:
_____
_____

3. Virginia license number_____

2. Federal identification number (FIN)_____

4. E-Mail address_____

5. Check the appropriate items concerning licensee:

(a) _____INDIVIDUAL _____PARTNERSHIP _____CORPORATION

_____ LIMITED LIABILITY COMPANY _____BUSINESS TRUST

(b) _____MORTGAGE LENDER _____MORTGAGE BROKER _____BOTH MORTGAGE LENDER AND MORTGAGE BROKER

6. Name and mailing address of parent company, if any

7. Does the licensee or its parent or affiliate operate in other states?

_____YES _____NO

8. Name, title and business address of the chief executive officer of licensee.

9. Individual to be contacted with respect to questions which may arise from this report (name, title, address, and **telephone number**):

10. Provide the name, title, address and **telephone number, fax number and e-mail address** for the individual to be contacted with respect to:

(a) Scheduling Examinations

(b) Consumer Complaints

SECTION I (Continued)

LIST OF OFFICES

11. List the physical location and mailing address of each office where mortgage business was conducted pursuant to the Virginia Mortgage Lender and Broker Act **as of December 31**. In addition, list any offices where Virginia loan files are stored. (Attach an additional sheet of 8 1/2" by 11" paper, if necessary.)

REGULATORY ACTIONS

12. Disclose any regulatory investigations of, or actions taken or pending by, any state or federal agency within the last three years against the licensee or any of its senior officers, directors, trustees, managers, or principal owners. Attach copies of all related documentation.

SECTION I (Continued)

DIRECTORS AND MANAGEMENT

13. If the licensee is a limited liability company or corporation, list all members, directors and senior officers (those within three reporting levels of the CEO), their titles, and their ownership interest, if any, **direct or indirect**, in the licensee. If the licensee is a partnership, list the partners, along with their ownership interest, **direct or indirect**, in the licensee. If the licensee is a business trust, list the trustees along with their ownership interest, **direct or indirect**, in the licensee.

Name	Title	Check applicable title(s)					# Shares Owned	Percentage Ownership
		Senior Officer	Director	Partner	Manager	Trustee		

Itemize any individuals and/or companies not listed above with a ten percent or greater ownership interest, **direct or indirect**, in the licensee.

Name	Number of Shares Owned	Percentage Ownership

SECTION II

MORTGAGE BROKERS

14. Has the licensee brokered any loans secured by a mortgage or deed of trust on residential property of one to four owner occupied units located in Virginia, regardless of where brokered?

    Yes_____ No_____

    If Yes, please provide the number and dollar amount brokered.

COLUMN 1 FIRST LIENS		COLUMN 2 SUBORDINATE LIENS		COLUMN 3 TOTAL	
NUMBER	$AMOUNT	NUMBER	$AMOUNT	NUMBER	$AMOUNT

15. List the names, addresses and telephone numbers of all mortgage lenders and mortgage brokers you did business with during the year. **This pertains only to mortgage or deeds of trust on residential Virginia properties**.

SECTION III

MORTGAGE LENDERS

16. Address of office where records of Virginia operations are kept for:

A) Files of closed first and second mortgage loans:_____

_____

B) Loan servicing:_____

_____

C) Rejected or turned down loans:_____

_____

D) Financial/Accounting operations:_____

_____

17. Provide the address of any offices or branches other than the main office where duplicates of the above records are kept:

_____

18. Has the licensee made any loans (closed in the name of the licensee) to individuals secured by a mortgage or deed of trust on residential property of one to four owner occupied units located in Virginia, during the calendar year?

Yes_____ No_____

If Yes, please provide the number and dollar amount of mortgage loans **closed in the name of the licensee during the year**, **whether or not carried on licensee's books as of December 31.**

COLUMN 1 FIRST LIENS		COLUMN 2 SUBORDINATE LIENS		COLUMN 3 TOTAL	
NUMBER	$AMOUNT	NUMBER	$AMOUNT	NUMBER	$AMOUNT

_____

19. Is the licensee a government approved lender?

Yes_____ No_____

If Yes, name the program(s):

SECTION III – MORTGAGE LENDERS (Continued)

20. State the range of interest rates and points charged during the year (highest and lowest).

INTEREST RATES:_____(HIGH) TO_____(LOW)

POINTS:_____(HIGH) TO_____(LOW)

21. Has the licensee made any loans subject to the Home Ownership and Equity Protection Act (§ 32 of Regulation Z)____ ____
Yes No

If Yes, please provide the number and total dollar amount of these loans _____ _____
Number Dollar Amount

22. Analysis of delinquent accounts as of December 31,

Accounts past due for a period of:	NUMBER	DOLLAR AMOUNT
TWO MONTHS.....	_____	$_____
THREE MONTHS.....	_____	$_____
MORE THAN THREE MONTHS.....	_____	$_____
TOTAL.....	_____	$_____

23. Law suits, possession and sale of security

	NUMBER	DOLLAR AMOUNT
Suits for recovery of money judgments:		
Instituted during the year ...….....	_____	_____
Judgments obtained during the year....….....	_____	_____
Possession of security obtained by licensee during the year By court action or contract right:..……....	_____	_____
Possession of security obtained by licensee during the year By voluntary surrender.....….....	_____	_____

AFFIDAVIT

State of_____)

County or City of_____)

I,_____, being the _____
(Name of Officer of Licensee) (Title)

of_____
(Name of Licensee)

swear or affirm that, to the best of my information and belief, the facts in this report, including any accompanying schedules and statements, are true.

_____
Signature

Subscribed and sworn to before me this_____day of_____, 20_____

_____
Notary Public

PLEASE MAKE SURE THIS REPORT <u>AND THE FINANCIAL STATEMENT OF THE LICENSEE</u> ARE FILED IN DUPLICATE BEFORE THE MARCH 1ST DEADLINE. IF AUDITED FINANCIAL STATEMENTS ARE BEING PREPARED BUT ARE NOT READY, PLEASE INDICATE BELOW THE APPROXIMATE DATE THAT THEY WILL BE FILED WITH THIS BUREAU AND ATTACH CURRENT INTERNAL FINANCIAL STATEMENTS. (If an audit of the licensee is not conducted, current internal statements alone are acceptable and should be attached.)

Anticipated filing date of audited financial statement of licensee: _____

7. Personal Financial Report of Biographical Information (Form Nos. CCB-1123 and CCB-1143, Rev. 6/06)

PERSONAL FINANCIAL REPORT AND DISCLOSURE STATEMENT

INSTRUCTIONS

This form is generally filed by directors or officers of existing financial institutions and in conjunction with applications for various certificates of authority and licenses pursuant to Title 6.1 of the Code of Virginia. The information provided on this form must be current (less than 90 days old at the time of filing with the Bureau) and accurate. The form and its contents are confidential. *The report must be executed with original signature(s).* In completing the form, please follow the instructions below:

1. An answer to each item is required. If your answer is "No", "None", "Not Applicable", or "Unknown", please indicate that on the question or schedule.

2. File any additional attachments and/or schedules on **8 ½" x 11"** paper if space provided on the form is inadequate. Sign and date all such schedules.

3. Have your spouse co-sign this form if assets and liabilities are jointly held with him/her.

4. If you are a bank or savings institution director filing this form pursuant to §§ 6.1-48.1, 6.1-194.14, or 6.1-194.117 of the Code of Virginia, have an officer of the bank or savings institution countersign this form.

5. Attach a separate financial statement for any business in which you have an ownership interest if a substantial portion (25 percent or more) of your net worth is tied to such a business. Your interest in such business should also appear in Schedule C on page 4 of this form, and the net annual income derived from such an interest should appear on the Statement of Income (page 3).

A Personal Financial Report and Disclosure Statement form containing false or misleading information raises questions about the character, integrity, and fitness of a director, officer, or principal of a financial institution. Therefore, it is imperative that you provide true and complete information as requested herein. Additionally, each filer must report promptly any material change in his/her financial condition or personal information that occurs during the review period of this filing.

Inquiries regarding the preparation and filing of this form should be directed to the Bureau of Financial Institutions, 1300 East Main Street, Suite 800, Post Office Box 640, Richmond, Virginia 23218-0640. Telephone: (804) 371-9690; FAX (804) 371-9416. This form can be downloaded from the Bureau's website at www.scc.virginia.gov/division/banking.

CCB-1123(Rev. 06/06)

SECTION I
FINANCIAL REPORT

I, _____ _____
Name Business Address

submit herewith the following information and a correct and complete statement of my financial condition as of _____
(Date)

to the State Corporation Commission for its confidential use, in connection with _____

_____
(Reason for Submitting Report)

An answer to each item is required. If the answer is "No", "None", or "Not Applicable", so state. If an item of information called for is "Unknown" so state. If space provided on this form is inadequate, attach a separate schedule. All such schedules should be signed and dated.

ASSETS		**LIABILITIES**	
1. Cash on Hand and in Banks	$ _____	9. Accounts Payable	$ _____
2. Notes, Loans, and Other Receivables Considered Good and Collectible	_____	10. Notes Payable to Banks (Schedule E)	_____
3. Marketable Securities (Schedule A)	_____	11. Other Notes Payable (Schedule F)	_____
4. Real Estate (Schedule B)	_____	12. Real Estate Mortgages (Schedule G)	_____
5. Business Interests (Schedule C)	_____	13. Interest and Taxes Due and Unpaid	_____
6. IRAs or Other Retirement Accounts	_____	14. Other Debts and Liabilities (Schedule H)	_____
7. Life Insurance (face amount $_____) Cash Surrender Value	_____	TOTAL LIABILITIES	_____
8. Other Assets (Schedule D)	_____	15. NET WORTH	_____
TOTAL ASSETS	_____	TOTAL LIABILITIES AND NET WORTH	_____

CONTINGENT LIABILITIES

In addition to the debts and liabilities listed above, I have endorsed, guaranteed, or am otherwise indirectly or contingently liable for the debts of others as follows:

Name and Address of Debtor or Obligor	Name and Address of Creditor or Obligee	Description of Collateral	Value of Collateral	Date Obligation Incurred	Date Obligation Due	Current Amount
					TOTAL	$

STATEMENT OF INCOME

INCOME ITEM	Year_____	Year_____	Year_____	Current Year
Salaries, wages, and commissions from employment				
Income from dividends and interest				
Net income from rents, royalties, and investments				
Other income				
TOTAL INCOME				
Taxes (federal and state income taxes)				
NET INCOME (after taxes)				

SUPPORTING SCHEDULES

Schedules set forth on pages three and four must agree in total with the corresponding item contained in the Financial Report on page two.

Schedule A - Marketable Securities

Description	Market Value	Description	Market Value
	$		$
CARRIED FORWARD TO ITEM 3, PAGE 2		**TOTAL**	$

Schedule B - Real Estate Owned

Description and Location	Title is Held in the Name of	Date Acquired	Percentage of your Ownership	Purchase Price	Current Value and Method of Determination
				$	$
CARRIED FORWARD TO ITEM 4, PAGE 2				**TOTAL**	**$**

Schedule C - Business Interests

(Businesses not listed on a securities exchange or otherwise regularly traded)

Description, % Owned, Basis of Valuation	Value
	$
CARRIED FORWARD TO ITEM 5, PAGE 2 **TOTAL**	$

Schedule D – Other Assets

Description and Basis of Valuation	Value
	$
CARRIED FORWARD TO ITEM 8, PAGE 2 **TOTAL**	$

Schedule E - Notes Payable to Banks

Name of Creditor	Security	Date Due	Balance
			$
CARRIED FORWARD TO ITEM 10, PAGE 2 **TOTAL**			$

Schedule F – Other Notes Payable

Name of Creditor	Security	Date Due	Balance
			$
CARRIED FORWARD TO ITEM 11, PAGE 2 **TOTAL**			$

Schedule G – Real Estate Mortgages Payable

Name of Creditor	Security	Date Due	Balance
			$
CARRIED FORWARD TO ITEM 12, PAGE 2 **TOTAL**			$

Schedule H - Other Debt and Liabilities

Description	Date Due	Amount
		$
CARRIED FORWARD TO ITEM 14, PAGE 2 **TOTAL**		$

SECTION II

PERSONAL INFORMATION

Date of Birth _____ Place of Birth _____ Citizenship _____

Residence Address _____

Length of Residence in Community _____ Social Security Number _____

Marital Status _____ Spouse's Name _____

Trade names and/or other names used in place of given name _____

List civic, professional, social, or other organizations in which you have membership _____

_____

_____

Résumé of Education _____

_____

_____

ACCOUNT RELATIONSHIPS

List all bank, savings institution, or any other financial institution deposit or loan relationships you have had in the past five years.

Institution/City	Account Number	Type of Account	Active or Closed

I hereby agree that any of the above financial institutions may release any information requested by the Bureau of Financial Institutions.

_____ _____

Date Signature

QUESTIONNAIRE

Read and answer the following questions carefully. If the answer is "yes" to any of the questions, attach a full written explanation. Where applicable, include parties, date(s), court name and address, case number, and court ruling or judgment amount for each matter reported. Also provide copies of court documentation where applicable.	
1. Have any civil judgments (whether satisfied or not) been entered against you during the past 10 years?	( ) Yes ( ) No
2. Are there any civil proceedings pending or civil judgements entered against you (or any company in which you hold or held a 25 percent or greater interest) which involve fraud or dishonesty?	( ) Yes ( ) No
3. Have you been convicted of or entered a plea of Nolo Contendere to a felony?	( ) Yes ( ) No
4. Have you ever been convicted of or entered a plea of Nolo Contendere to any misdemeanor involving theft, fraud, or dishonesty?	( ) Yes ( ) No
5. Have you been the subject of a bankruptcy, assignment for the benefit of creditors, receivership, conservatorship, or any similar proceeding?	( ) Yes ( ) No
6. Has any company in which you hold or held a 25 percent or greater ownership interest or in which you are or were a senior officer* or a director been the subject of a bankruptcy, assignment for the benefit of creditors, receivership, conservatorship, or any similar proceeding?	( ) Yes ( ) No
7. Have you (or any company in which you hold or held a 25 percent or greater ownership interest or in which you are or were a senior officer* or a director) been refused a license to engage in any business or had any license suspended or revoked by any State or Federal agency?	( ) Yes ( ) No
8. Have you been discharged for cause or been requested to resign from any employment position?	( ) Yes ( ) No
9. Are you now or have you ever been a senior officer* or director of any financial institution with respect to which there has been a change in status through closing, reorganization, merger, or any other action as a result of State or Federal supervisory action?	( ) Yes ( ) No
10. Has your tenure as a senior officer* or director of any such institution been changed or terminated as a result of State or Federal supervisory action?	( ) Yes ( ) No
11. Have you (or any company in which you hold or held a 25 percent or greater ownership interest or in which you are or were a senior officer* or a director) been the subject of any past or current formal or informal investigations, examinations, or administrative proceedings conducted by any department, agency, or commission of the United States or any state or municipality, or any foreign government or governmental entity, and/or have any agreements, undertakings, or consents been entered into with any of the foregoing?	( ) Yes ( ) No

*A senior officer is defined as a person who has significant management responsibility within an organization or otherwise has the authority to influence or control the conduct of the organization's affairs, including but not limited to its compliance with applicable laws and regulations

CERTIFICATION

I certify under oath that to the best of my knowledge, information, and belief, the facts as stated in this form and any schedules attached are true.

_____ _____

Date Signature in Full

_____ _____

Date Signature of Spouse (if any)

This report, **when filed by a director of a bank or savings institution,** must also be signed by an officer designated pursuant to §§ 6.1-48.1, 6.1-194.14, or 6.1-194.117 of the Code of Virginia.

I have reviewed this form and have no reason to believe that the information herein is incomplete or inaccurate.

_____	_____
Name of Bank or Savings Institution	Name and Title of Officer of Bank or Savings Institution (Type or Print)
_____	_____
Date	Signature

CCB-1150 (Rev. 06/06)

EMPLOYMENT AND BUSINESS AFFILIATION DISCLOSURE FORM

I, _____ _____
(Name) (Business Address)

submit herewith the following information to the State Corporation Commission for its use, in connection with the application of:

_____
(Applicant Name)

EMPLOYMENT RECORD*

(include employment for last seven years)

Dates		Name, Location, and Type of Business	Position Held and Duties Performed
From	To		

*Fully complete this schedule. You may also attach a résumé; however, it may not be substituted in place of this schedule.

BUSINESS AFFILIATIONS

List all firms, companies, corporations, or other business organizations of which you are at present a director, officer, employee, partner, or owner.

Name and Location	Type of Business	Position Held

CERTIFICATION

I certify that to the best of my knowledge, information, and belief, the facts as stated in this form and any schedules attached are true.

_____ _____
Date Signature

LIMITED PERSONAL FINANCIAL REPORT AND DISCLOSURE STATEMENT

INSTRUCTIONS

This form is generally filed by outside directors (a person who is not a paid employee of the applicant or its parent and who does not own 10% or more of the applicant or its parent) of existing financial institutions in conjunction with various certificates of authority and licenses pursuant to Title 6.1 of the Virginia Code. The information provided on this form must be current (less than 90 days old at the time of filing with the Bureau) and accurate. The form and its contents are confidential. *The report must be executed with original signature(s).* In completing the form, please follow the instructions below:

1. An answer to each item is required. If your answer is "No", "None", "Not Applicable", or "Unknown", please indicate that on the question or schedule.

2. File any additional attachments and/or schedules on **8½" x 11"** paper if space provided on the form is inadequate. Sign and date all such schedules.

3. Have your spouse co-sign this form if assets and liabilities are jointly held with him/her.

4. Attach a separate financial statement for any business in which you have an ownership interest if a substantial portion (25 percent or more) of your net worth is tied to such a business. Your net annual income derived from such an interest should appear on the Statement of Income (page 2).

A Limited Personal Financial Report and Disclosure Statement form containing false or misleading information raises questions about the character, integrity, and general fitness of an outside director of a financial institution. Therefore, it is imperative that you provide true and complete information as requested herein. Additionally, each filer must report promptly any material change in his/her financial condition or personal information that occurs during the review period of this filing.

Inquiries regarding the preparation and filing of this form should be directed to the Bureau of Financial Institutions, 1300 East Main Street, Suite 800, Post Office Box 640, Richmond, Virginia 23218-0640. Telephone: (804) 371-9690; FAX (804) 371-9416. This form can be downloaded from the Bureau's website at www.scc.virginia.gov/division/banking.

SECTION I
FINANCIAL REPORT

I, _____ _____
(Name) (Business Address)

submit herewith the following information and a correct and complete statement of my financial condition as of _____
(Date)

to the State Corporation Commission for its confidential use, in connection with _____

_____
(Reason for Submitting Report)

An answer to each item is required. If the answer is "No", "None", or "Not Applicable", so state. If an item of information called for is "Unknown", so state. If space provided on this form is inadequate, attach a separate schedule. All such schedules should be signed and dated.

ASSETS		LIABILITIES	
1. Cash on Hand and in Banks	$ _____	9. Accounts Payable	$ _____
2. Notes, Loans, and Other Receivables Considered Good and Collectible	_____	10. Notes Payable to Banks	_____
		11. Other Notes Payable	_____
3. Marketable Securities	_____	12. Real Estate Mortgages	_____
4. Real Estate	_____	13. Interest and Taxes Due and Unpaid	_____
5. Business Interests	_____	14. Other Debts and Liabilities	_____
6. IRAs or Other Retirement Accounts	_____		
7. Life Insurance (face amount $_____) Cash Surrender Value	_____	TOTAL LIABILITIES	_____
		15. NET WORTH	_____
8. Other Assets	_____		
TOTAL ASSETS	_____	TOTAL LIABILITIES AND NET WORTH	_____

TOTAL CONTINGENT LIABILITIES $_____

STATEMENT OF INCOME

INCOME ITEM	Year_____	Year_____	Year_____	Current Year
Salaries, wages, and commissions from employment				
Income from dividends and interest				
Net income from rents, royalties, and investments				
Other income				
TOTAL INCOME				
Taxes (federal and state income taxes)				
NET INCOME (after taxes)				

SECTION II

PERSONAL INFORMATION

Date of Birth _____ Place of Birth _____ Citizenship _____

Residence Address _____

Length of Residence in Community _____ Social Security Number _____

Marital Status _____ Spouse's Name _____

Trade names and/or other names used in place of given name _____

List civic, professional, social, or other organizations in which you have membership _____

_____

_____

Résumé of Education _____

_____

_____

ACCOUNT RELATIONSHIPS

List all bank, savings institution, or any other financial institution deposit or loan relationships you have had in the past five years.

Institution/City	Account Number	Type of Account	Active or Closed

I hereby agree that any of the above financial institutions may release any information requested by the Bureau of Financial Institutions.

_____ _____

Date Signature

QUESTIONNAIRE

Read and answer the following questions carefully. If the answer is "yes" to any of the questions, attach a full written explanation. Where applicable, include parties, date(s), court name and address, case number, and court ruling or judgment amount for each matter reported. Also provide copies of court documentation where applicable.	
1. Have any civil judgments (whether satisfied or not) been entered against you during the past 10 years?	( ) Yes ( ) No
2. Are there any civil proceedings pending or civil judgements entered against you (or any company in which you hold or held a 25 percent or greater interest) which involve fraud or dishonesty?	( ) Yes ( ) No
3. Have you been convicted of or entered a plea of Nolo Contendere to a felony?	( ) Yes ( ) No
4. Have you ever been convicted of or entered a plea of Nolo Contendere to any misdemeanor involving theft, fraud, or dishonesty?	( ) Yes ( ) No
5. Have you been the subject of a bankruptcy, assignment for the benefit of creditors, receivership, conservatorship, or any similar proceeding?	( ) Yes ( ) No
6. Has any company in which you hold or held a 25 percent or greater ownership interest or in which you are or were a senior officer* or a director been the subject of a bankruptcy, assignment for the benefit of creditors, receivership, conservatorship, or any similar proceeding?	( ) Yes ( ) No
7. Have you (or any company in which you hold or held a 25 percent or greater ownership interest or in which you are or were a senior officer* or a director) been refused a license to engage in any business or had any license suspended or revoked by any State or Federal agency?	( ) Yes ( ) No
8. Have you been discharged for cause or been requested to resign from any employment position?	( ) Yes ( ) No
9. Are you now or have you ever been a senior officer* or director of any financial institution with respect to which there has been a change in status through closing, reorganization, merger, or any other action as a result of State or Federal supervisory action?	( ) Yes ( ) No
10. Has your tenure as a senior officer* or director of any such institution been changed or terminated as a result of State or Federal supervisory action?	( ) Yes ( ) No
11. Have you (or any company in which you hold or held a 25 percent or greater ownership interest or in which you are or were a senior officer* or a director) been the subject of any past or current formal or informal investigations, examinations, or administrative proceedings conducted by any department, agency, or commission of the United States or any state or municipality, or any foreign government or governmental entity, and/or have any agreements, undertakings, or consents been entered into with any of the foregoing?	( ) Yes ( ) No

*A senior officer is defined as a person who has significant management responsibility within an organization or otherwise has the authority to influence or control the conduct of the organization's affairs, including but not limited to its compliance with applicable laws and regulations

CERTIFICATION

I certify under oath that to the best of my knowledge, information, and belief, the facts as stated in this form and any schedules attached are true.

_____ _____
Date Signature in Full

_____ _____
Date Signature of Spouse (if any)

8. Consumer Finance and Mortgage Section Presentation

Bureau of Financial Institutions

Orientation for New Mortgage Licensees

When the Examiner Arrives:

- Provide adequate work space, access to phone, copy & fax machine
- Introduce to key personnel
- Direct them to where files are maintained
- Provide a copy of previous exam and response (if applicable)
- Provide blank copy of standard forms

Officer's Questionnaire

- Available on disk, via e-mail or hard copy
- Complete while examiners are in your office or prior to the examination
- Include all attachments (forms, advertising, broker/lender lists, financial statements - audited, if possible),
- Ask questions! Examiners are not attorneys and cannot give legal advice!

Chapter 1
General Provisions

- §6.1-2.6:1 Fire insurance coverage under certain loans not to exceed replacement value of improvements
- §6.1-2:9 Lenders to furnish borrower with copy of appraisal (also refer to Federal Regulation B §202.5)

Chapter 1
General Provisions

- §6.1-2.9:5 Disclosure of terms of mortgage application
  - written disclosure required to be given to borrowers at the time of application for a first mortgage loan
  - must be initialed or signed by borrower and broker/lender

Chapter 1
General Provisions

- §6.1-2.9:5 continued
- Disclosure must include:
  - statement that describes when, if ever, the interest, points and fees will be locked in;
  - a statement that any terms not legally locked in are subject to change until settlement; and
  - a good faith estimate of the processing time required for the loan, taking into account time needed for inspections & other functions necessary to close the loan.

Chapter 1.1
Wet Settlement Act

- §6.1-2.10 Definitions
  - disbursement of loan funds - delivery of loan funds by lender to settlement agent
  - disbursement of settlement proceeds - payment of all proceeds of transaction by settlement agent to persons entitled thereto
  - loan closing - time agreed upon when execution of loan documents occur

Chapter 1.1
Wet Settlement Act

- §6.1-2.10 - Definitions (continued)
  - settlement - when settlement agent receives the executed deed, loan funds, loan documents and other docs and funds required to carry out the terms of the contract between the parties and pre-recordation conditions have been met

Chapter 1.1
Wet Settlement Act

- §6.1-2.11 Applicability
  - applies to all first mortgage transactions -- purchase and refinance
- §6.1-2.12 Duty of lender
  - at or before loan closing, disburse loan funds to settlement agent, unless right of rescission applies
  - lender cannot receive interest on the loan until disbursement of loan funds and loan closing has occurred

Chapter 1.1
Wet Settlement Act

- §6.1-2.13 Duty of Settlement Agent
  - must cause recordation of loan documents and disburse settlement proceeds within two business days of settlement

Chapter 7.3
Money and Interest

- §6.1-330.70 Fees and charges in connection with loans by real estate lenders; certain borrowers not to be required to employ particular attorney, surveyor or insurer.
  - Applies to first mortgage loans and allows lenders to charge a loan fee as agreed to by the borrower

Chapter 7.3
Money and Interest

- §6.1-330.70 continued
  - allows for the lender to require the borrower to pay the reasonable and necessary charges in connection with *making* the loan (refer to Administrative Letter 1606 regarding assignment fees)
  - prohibits the lender from requiring the borrower to use the services of a particular attorney, surveyor or insurer.

Chapter 7.3
Money and Interest

- §6.1-330.71 Charges on subordinate mortgage loans made by certain lenders.
  - Paragraph D limits the loan fee to not more than 5% of the principal amount of the loan. The *principal amount* of the loan is the loan amount that does not include points (refer to April 1998 issue of The Compliance Connection).

Chapter 7.3
Money and Interest

- §6.1-330.72 Loans secured by subordinate mortgages, charges allowed...
  - Specifically lists the third party fees that borrowers can be required to pay. If a fee is not listed in this section, it cannot be charged to the borrower

Chapter 7.3
Money and Interest

- §6.1-330.80 Amount of late charge; when charge can be made.
  - Lender can impose late charge for failure to make “timely payment”
  - Late charge cannot exceed 5%
  - “Timely payment” is defined as one made by the date fixed for payment or within 7 calendar days of due date

Chapter 7.3
Money and Interest

- §6.1-330.82 Property owner entitled to written statement of payoff amount.
  - Borrower entitled to written payoff statement within 10 business days of receipt of written request from the property owner/designee
  - First payoff request in a 12 month period must be at no charge. For each additional request, fee cannot exceed $15.
  - A fax is considered a written request.

Chapter 7.3
Money and Interest

- §6.1-330.83 Prepayment penalty for loan secured by home occupied by borrower.
  - Applies to first mortgages, owner occupied residential properties located in VA
  - Penalty cannot exceed 2% of the amount of the prepayment
  - Includes “alternative mortgage transactions” made after 7/1/03 (Ref. AL 1610)

Chapter 7.3
Money and Interest

- §6.1-330.85 Prepayment of loan described in §6.1-330.71.
  - Applies to subordinate mortgages
  - borrowers can prepay loan in whole or in part at any time. Lender can contract for a prepayment penalty but fee cannot exceed 2% of the principal amount prepaid.
  - Includes “alternative mortgage transactions” made after 7/1/03 (Ref. AL 1610)

Chapter 7.3
Money and Interest

- §6.1-330.85 continued
  - Penalty cannot be imposed if:
    - loan is refinanced or consolidated with the same lender or subsequent note holder,
    - if loan is accelerated due to default, or
    - if partial prepayment is made or in the case of an open end credit line where there is a payment of the balance without a demand to release the deed of trust

Chapter 16 Mortgage Lender and Broker Act

- § 6.1-409 Definitions
  - Mortgage Broker - any person who directly or indirectly negotiates, places or finds mortgage loans for others or offers to negotiate, place or find loans for others.
    - Includes intermediate mortgage activities, such as loan processing, telemarketing, lead generation companies -- they “indirectly negotiate, place or find mortgage loans for others”

Chapter 16 Mortgage Lender and Broker Act

- §6.1-409 Definitions continued
  - Mortgage Broker
    - if loan processor or telemarketer is a bona fide employee of licensed mortgage company, then no separate license is necessary
    - refer to IRS guidelines (common law employee vs. independent contractor)

Chapter 16 Mortgage Lender and Broker Act

- §6.1-409 Definitions continued
  - Mortgage lender - any person who directly or indirectly makes mortgage loans.
    - Administrative Letter 1601 states the Bureau's position that the payee named in a mortgage loan note is presumed to be the mortgage lender

Chapter 16 Mortgage Lender and Broker Act

- 6.1-409 Definitions continued
  - Mortgage loan - loan made to an individual, proceeds of which are used primarily for personal, family or household purposes, upon any interest in a 1-4 family residential owner-occupied property located in VA
    - definition does not include loans made for business, commercial, agricultural purpose

Chapter 16 Mortgage Lender and Broker Act

- §6.1-411 Exemptions
  - Include but not limited to:
    - LENDERS who make 3 or fewer mortgage loans in period of 12 consecutive months *(NOTE: effective 7/1/03 this exemption was reduced from 10 to 3 or fewer loans)*
    - banks, savings institutions, credit unions, industrial loan associations, financial institution holding companies

Chapter 16 Mortgage Lender and Broker Act

- §6.1-411 Exemptions (continued)
  - subsidiaries and affiliates (as defined in AL 1608) of banks, savings institutions credit unions

Chapter 16 Mortgage Lender and Broker Act

- §6.1-415 & Administrative Letter 1604
  - Lenders must *continuously* maintain a minimum of $200,000 for the operation of the business
  - must be in form of cash or line of credit with depository institution (bank, savings institution, credit union) or combination of cash and line of credit

Chapter 16 Mortgage Lender and Broker Act

- §6.1-415 and AL 1604 continued
  - Acceptable evidence of compliance:
    - copy of bank statements since last examination (or date of licensure)
    - copy of current *executed* line of credit
  - Failure to provide acceptable evidence can lead to the revocation of the license

Chapter 16 Mortgage Lender and Broker Act

- §6.1-417 Retention of books, accounts and records.
  - Books, accounts and records must be kept separate and apart from any other business and in a *licensed* location
  - Three year retention requirement
  - Brokers: *original* contract for compensation, HUD-1 settlement statement, accounting of fees received in connection with the loan and other papers as required

Chapter 16 Mortgage Lender and Broker Act

- §6.1-417 continued
  - Lenders: copy of note, HUD-1 settlement statement, final Truth-in-Lending statement and other papers as required
  - Files can be retained electronically, but brokers must still retain the **original** contract for compensation

NOTE: Federal Regulation B §202.12 requires retention of canceled and denied files for 25 months

Chapter 16 Mortgage Lender and Broker Act

- §6.1-419 Investigations; examinations.
  - Commission may conduct exams as often as it deems necessary
  - Required to examine each mortgage licensee at least once every three years

Chapter 16 Mortgage Lender and Broker Act

- §6.1-422 Prohibited predatory practices.
  - Lenders & Brokers are prohibited from, among other things:
    - obtaining borrower's signatures on agreements that contain blanks
    - obtaining exclusive dealing/agency agreement from any borrower

Chapter 16 Mortgage Lender and Broker Act

- §6.1-422 continued
  - Brokers are prohibited from, among other things:
    - receiving compensation, other than actual cost of credit reports and appraisals, prior to borrower receiving a written commitment from the lender

Chapter 16 Mortgage Lender and Broker Act

- §6.1-422 continued
  - receiving compensation that is not specified in a written agreement signed by the borrower(s). Ref. AL 1607 -- cannot use terms such as “not to exceed” or “not more than” when stating the fee in the contract for compensation
  - violations of this statute will result in overcharges which will require reimbursement to affected borrowers

Chapter 16 Mortgage Lender and Broker Act

- §6.1-422 continued
  - Brokers are also prohibited from receiving compensation as a mortgage broker in a transaction where they or anyone affiliated (defined in next slide) with the mortgage broker acted as a real estate broker, agent or salesman in connection with the property securing the loan and has or will receive compensation for the sale of the property. Dual compensation is prohibited unless mortgage broker was licensed on or before 2/25/89.

Chapter 16 Mortgage Lender and Broker Act

- §6.1-422 continued
  - "*Affiliated person of a mortgage broker"* means any person which is a subsidiary, stockholder, partner, trustee, director, officer or employee of a mortgage broker, and any corporation ten percent or more of the capital stock of which is owned by a mortgage broker or by any person which is a subsidiary, stockholder, partner, trustee, director, officer or employee of a mortgage broker

Chapter 16 Mortgage Lender and Broker Act

- §6.1-422.1 A "Flipping" Prohibited
  - A flipped loan is one in which the new loan does not result in a benefit to the borrower considering the terms of both the new and refinanced loan, cost of the new loan and the borrower's circumstances

Chapter 16 Mortgage Lender and Broker Act

- §6.1-422.1 A "Flipping Prohibited" (italics indicate changes/additions effective 7/1/03)
  - "Flipping" a mortgage loan means refinancing a mortgage loan within 12 months following the date the refinanced loan was originated, *unless the refinancing is in the borrower's best interest. Factors to be considered in determining the same would include but not be limited to whether:*

Chapter 16 Mortgage Lender and Broker Act

- §6.1-422.1 A "Flipping" continued
  - *the borrowers new monthly payment is lower than the total of all monthly obligations being financed, taking into account the costs and fees;*
  - *there is a change in the amortization period of the new loan;*
  - *the borrower receives cash in excess of the costs and fees of refinancing;*
  - *the borrower's note rate is reduced;*

Chapter 16 Mortgage Lender and Broker Act

- §6.1-422.1 A "Flipping" (continued)
  - *there is change from an adjustable to a fixed rate loan, taking into account costs and fees; and*
  - *the refinancing is necessary to respond to a bona fide personal need or an order of a court of competent jurisdiction.*

Chapter 16 Mortgage Lender and Broker Act

- §6.1-422.1 B (italics indicate changes/additions effective 7/1/03)
  - No mortgage lender or *broker* shall knowingly or intentionally engage in the act or practice of “flipping” a mortgage loan.

Chapter 16 Mortgage Lender and Broker Act

- §6.1-424 Advertising
  - Advertisements:
    - shall not contain false, misleading or deceptive statements or representation
    - identify the lender or broker by any name other than the name set forth on the license

    Refer to Federal Regulation Z Truth in Lending Act §226.24 and 10 VAC 5-160-60 for additional advertising provisions

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-10 Definitions
  - advertisement
  - affiliate and subsidiary
  - commitment, commitment agreement and commitment fee
  - fees paid to third persons
  - lock-in agreement and lock-in fee
  - points
  - reasonable period of time

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-20 Operating Rules
  - shall not misrepresent qualification requirements or any material loan terms or make false or misleading statements to induce an applicant to apply for a mortgage loan or to enter into commitment or lock-in agreement or to pay a commitment or lock-in fee

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-20 Operating Rules (continued)
  - no “upcharging” on third party fees
  - monies received from applicant for third party fees must be supported by adequate documentation and deposited in an escrow account separate from the licensee’s other funds

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-20 Operating Rules (continued)
  - requires written notice of transfer of servicing rights; provides required information to be included in the notice; requires delivery at least 10 days before the due date of the first payment affected

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-20 Operating Rules (continued)
  - Requires written report to the Commissioner, within 15 days, when certain events occur. Written report must describe event and any expected impact on the activities of the licensee in VA

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-20 Operating Rules (continued)
  - Events that require notification include:
    - Bankruptcy or reorganization
    - government authority institutes revocation or suspension proceedings against a licensee, or revokes, suspends license held by licensee
    - formal regulatory/enforcement action or any other action against licensee relating to their mortgage business by a governmental agency where the total amount of restitution or other payment from the licensee exceeds $20,000 (continued)

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-20 Operating Rules (continued)
  - licensee enters into a consent or settlement order, decree or agreement with a government agency;
  - licensee surrenders its mortgage license in any other state in lieu of threatened or pending license revocation, suspension or other enforcement action;
  - denial of a license to engage in any mortgage related business in another state;
  - licensee or any of its employees, officers, directors or principals indicted or convicted of a felony

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-20 Operating Rules (continued)
  - DOES NOT APPLY TO ADVERTISEMENTS SUBJECT TO 10 VAC 5-160-60
  - shall not tell a consumers that they are pre-approved unless the consumer is also given (at the same time) a written disclosure (in at least 10-point type)

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-20 Operating Rules (continued)
  - Written disclosure must:
    - explain what *preapproved* means
    - inform the consumer that the loan application has not yet been approved
    - state that a written commitment to make the loan has not yet been issued
    - advise the consumer what needs to happen before the application can be approved

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-30 Commitment Agreements and Lock-in Agreements
  - Commitment and lock-in agreements must contain certain information as outlined in the regulation

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-30 continued
  - Commitment agreements must contain:
    - identity of property
    - principal amount and term of the loan
    - interest rate and points if the agreement is also used as a lock-in agreement or statement that rate and points will be made at lender's prevailing rate
    - amount of any commitment fee and time in which the fee must be paid

Chapter 160 Virginia Administrative Code

- Commitment agreements continued
  - whether or not funds will be escrowed and for what purpose
  - whether or not PMI is required
  - length of the commitment period
  - statement that if the loan is not closed within the commitment period, the lender is no longer obligated by the agreement
  - any other terms of the commitment required by lender

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-30
  - Lock-in agreements must contain:
    - interest rate and points, and if ARM, the initial rate and brief description of the method to determine rate
    - amount of any lock-in fee
    - length of lock-in period
    - statement that if the loan is not closed within the lock-in period, the lender is no longer obligated by the agreement

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-30
  - Lock-in agreements must (continued)
    - contain a statement that any terms not locked in by the agreement are subject to change until the loan is closed at settlement
    - include any other terms and conditions required by the lender or broker acting on behalf of the lender
    - be signed by a representative of the lender or broker

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-30
  - a mortgage broker shall not issue a lock-in agreement to a consumer unless MB has actually locked in the loan (interest rate, points, and other terms) with a mortgage lender. Mortgage broker must maintain written documentation of all lock in information from the lender for at least 3 years from the date the lock-in expires

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-60 Advertising

  Ads must clearly and conspicuously include:

  - name of licensee as shown on license issued by Commission;
  - statement that the company is licensed by the "Virginia State Corporation Commission";
  - license number (MB-XXX, MLB-XXX, ML-XXX);
  - If ad includes a rate of interest, a statement that the stated rate may change or not be available at the time of loan commitment or lock-in;

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-60 Advertising

  Ads must include:

  - if ad contains info about a consumer's existing mortgage loan and info was not obtained from the consumer, a statement identifying the source of the information (i.e. public records, credit reporting agency)

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-60 Advertising
  - shall not deceptively advertise a mortgage loan, make false or misleading statements or representations, or misrepresent the terms, conditions or charges incident to obtaining the loan
  - Shall not imply that the mortgage company is affiliated with, or an agent or division of a governmental agency, depository institution or other entity where no such relationship exists

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-60 Advertising
  - shall not state that a consumer has been/will be preapproved unless licensee discloses on the face of the ad (in at least 14-point type) “THIS IS NOT A LOAN APPROVAL” and clearly and conspicuously discloses the conditions and/or qualifications of the preapproval.

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-60 Advertising
  - licensee shall not use or publish any ad that gives a consumer the false impression that the ad is being sent by the borrower's current noteholder or lienholder. If ad includes the name of the current note/lienholder, it shall not be more conspicuous than the name of the mortgage company using the advertisement

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-60 Advertising
  - licensee cannot deliver or cause to be delivered to a consumer any envelope or other written material that gives the false impression that the item is an official communication from a governmental entity, unless required by the US Postal Service

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-60 Advertising
  - if ad states or implies that consumers can reduce their monthly payment by refinancing current mortgage loan, but refinance may result in the consumer's finance charges being higher over the life of the loan, licensee must clearly and conspicuously disclose that fact

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-60 Advertising
  - advertisements must comply with the disclosure requirements contained in the Truth in Lending Act and Regulation Z
  - “clearly and conspicuously” means that a required disclosure is reasonably understandable, prominently located and readily noticeable by a potential borrower of ordinary intelligence

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-60 Advertising
  - licensees must retain for at least three years after last published, delivered, transmitted, or made available, an example of every ad used, including but not limited to solicitation letters, commercial scripts, and recordings of all radio and TV broadcasts (excludes copies of internet web pages)

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-40 Schedule prescribing annual fees paid for the examination, supervision and regulation of mortgage lenders and brokers
  - sets schedule for annual fees (base amount plus per loan fee)
  - sets dates for assessment (April 25th) and payment due date (May 25th)

Chapter 160 Virginia Administrative Code

- 10 VAC 5-160-50 Responding to requests from Bureau of Financial Institutions.
  - requires response to Bureau requests within the time period specified (or within 30 days if no time is specified) and clarifies that failure to do so could result in a fine, suspension or revocation of license

Title 55 Title and Conveyances

- §55-66.3 Release of deed of trust
  - when a loan is paid in full, the lien creditor must, within 90 days of payoff, cause the payment to be recorded on a certificate of satisfaction in the clerk's office
  - if not done, the borrower could collect $500 from the creditor, in addition to court costs and borrower's attorney fees incurred collecting the fee

Most Common Violations

- Overcharges -- receiving compensation in excess of that specified in a written agreement
- Overcharges - collection of prohibited fees on second mortgages
- Blanks on agreements signed by borrowers
- Incomplete or no “Virginia disclosure” given to first mortgage applicants
- Failure to retain required documents Inadequate documentation of third party fees

BFI Consumer Finance and Mortgage Section

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(804) 371-9701

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Commissioner E.J. “Joe” Face

Deputy Commissioner Susan E. Hancock

Virginia State Corporation Commission
Bureau of Financial Institutions

Revised Mortgage Regulations
Effective September 1, 2006

10 VAC 5-160-10 Definitions

- **Advertisement**

- commercial message in any medium that promotes a mortgage loan.
- Includes communication sent to a consumer as part of a solicitation of business,
- Excludes messages on promotional items such as pens, pencils, notepads, hats, calendars, etc. as well as rate sheets or other information distributed or made available solely to other businesses.

- **Affiliate**

- entity of which 25% or more of the voting shares or ownership interest is held, directly or indirectly, by a company that also owns a bank, savings institution, or credit union.

- **Lock-in agreement**

- written agreement between a mortgage lender, or mortgage broker on behalf of a mortgage lender, and an applicant for a mortgage loan

- **Subsidiary**

- entity of which 25% or more of the voting shares or ownership interest is held, directly or indirectly, by a bank, savings institution, or credit union.

10 VAC 5-160-20 Operating Rules

1. No licensee shall misrepresent the qualification requirements for a mortgage loan or any material loan terms or make false or misleading statements to induce an applicant to apply for a mortgage loan or to enter into any commitment agreement or lock-in agreement or to pay any commitment fee or lock-in fee in connection therewith.

2. No licensee shall retain any portion of any fees or charges imposed upon consumers for goods or services provided by third parties.

- Third party fees received from an applicant (i.e. fees for appraisal, courier, credit report, etc) must be supported by adequate documentation (i.e. bill/invoice showing service provided and the fee amount).
- Third party fees shall be shall be deposited in an escrow account in a bank, savings institution, or credit union segregated from the licensee's other funds.

5. Within 15 days of becoming aware of any of the following events, licensee shall file a written report with the commissioner describing the event and any expected impact on the licensee's activities in Virginia:

Continued-

a. Licensee files for bankruptcy or reorganization.

b. Any governmental authority institutes revocation or suspension proceedings against the licensee, or revokes or suspends a mortgage-related license held or formerly held by the licensee.

Continued –

c. Any governmental authority takes

(i) formal regulatory or enforcement action against a licensee relating to its mortgage business or

(ii) any other action against the licensee relating to its mortgage business where the total amount of restitution or other payment from the licensee exceeds $20,000.

Continued -

d. Based on allegations by any governmental authority that the licensee violated any law or regulation applicable to the conduct of its licensed mortgage business, the licensee enters into, or otherwise agrees to the entry of, a settlement or consent order, decree, or agreement with or by such governmental authority.

Continued -

e. Licensee surrenders its license to engage in any mortgage-related business in another state in lieu of threatened or pending license revocation, license suspension or other regulatory or enforcement action.

Continued -

f. Licensee is denied a license to engage in any mortgage-related business in another state.

g. Licensee or any of its employees, officers, directors or principals is indicted for a felony

h. Licensee or any of its employees, officers, directors, or principals is convicted of a felony.

6. No licensee shall inform a consumer that such consumer has been or will be “preapproved” (or “pre-approved”) for a mortgage loan unless the licensee contemporaneously provides the consumer with a separate written disclosure (in at least 10-point type) that

(i) explains what preapproved means;

(ii) informs consumer that the loan application has not yet been approved;

(iii) states a written commitment to make a mortgage loan has not yet been issued;

(iv) advises consumer what needs to occur before the loan application can be approved.

10 VAC 5-160-30 Commitment agreements and lock-in agreements

Part A relating to commitment agreements did not change – commitment agreement (if given) must still contain the same information as in the original regulation.

Part B relating to lock-in agreements has been changed to require that if a lock-in agreement is issued, it must be signed by a representative of the mortgage lender or mortgage broker. The lock-in agreement must contain the same information as required in the original regulation.

- Part C and D remain the same
- Part E was added

  - mortgage broker shall not issue a lock-in agreement to a consumer unless the mortgage broker has actually locked in the mortgage loan (including the applicable interest rate, points, and other terms) with a mortgage lender

  - mortgage broker must maintain supporting written documentation from the mortgage lender of all lock-in information for at least 3 years from the date the lock-in expires

10 VAC 5-160-60 Advertising

A. Every advertisement used by, or published on behalf of, a licensed mortgage lender or mortgage broker shall clearly and conspicuously disclose the following:

1. Name of mortgage lender or broker as set forth on the license
2. Statement that the mortgage lender or mortgage broker is licensed by the "Virginia State Corporation Commission."

3. License number assigned by the SCC (i.e. MB-1, ML-1 or MLB-1)
4. If an ad contains an interest rate, a statement that the stated rate may change or not be available at the time of loan commitment or lock-in,
5. If an ad contains specific information about a consumer's existing mortgage loan and the information was not obtained from the consumer, a statement identifying the source of the information (i.e. public records, credit reporting agency),

B. No mortgage lender or mortgage broker shall deceptively advertise a mortgage loan, make false or misleading statements or representations, or misrepresent the terms, conditions, or charges incident to obtaining a mortgage loan.

c. No mortgage lender or mortgage broker shall use or cause to be published an advertisement that states or implies the following:

1. The mortgage lender or broker is affiliated with, or an agent or division of, a governmental agency, depository institution, or other entity with which no such relationship exists; or

2. A consumer has been or will be "preapproved" for a mortgage loan, unless the mortgage lender or mortgage broker

(i) discloses on the face of the ad in at least 14 point bold type that "THIS IS NOT A LOAN APPROVAL" and

(ii) clearly and conspicuously discloses the conditions and/or qualifications associated with the preapproval.

D. Mortgage lender or mortgage broker shall not use or cause to be published any ad that gives a consumer the false impression that the ad is being sent by the consumer's current note holder or lien holder.

- If an ad contains the name of the consumer's current note holder or lien holder, it shall not be more conspicuous than the name of the mortgage lender or mortgage broker using the ad.

E. Mortgage lender or mortgage broker shall not deliver or cause to be delivered to a consumer any envelope or other written material that gives the false impression that the mailing or written material is an official communication from a governmental entity,

F. If ad states or implies that a consumer can reduce his monthly payment by refinancing his current mortgage loan, but as a result of such refinancing, the consumer's total finance charges may be higher over the life of the loan, a mortgage lender or mortgage broker shall clearly and conspicuously disclose to the consumer that by refinancing, the consumer's total finance charges may be higher over the life of the loan.

- G. Every ad used by, or published on behalf of, a mortgage lender or mortgage broker shall comply with the advertising disclosure requirements contained in TILA and Regulation Z.

H. “Clearly and conspicuously”

- a required disclosure is reasonably understandable, prominently located, and readily noticeable by a potential borrower of ordinary intelligence.

I. Example of every ad used, (including solicitation letters, commercial scripts, and recordings of radio and television broadcasts but excluding copies of Internet web pages) must be retained for at least three years after it is last published, delivered, transmitted, or made available.

Virginia State Corporation Commission

Bureau of Financial Institutions

P.O. Box 640

Richmond, VA 23218-0640

(804) 371-9657

www.scc.virginia.gov/division/banking

Bureau of Financial Institutions

Orientation for New Mortgage Licensees

Administrative Letter 1609 Surety Bonds

- Bonds must be *continuously* maintained
- Mortgage Brokers -- $25,000 bond
- Mortgage Lenders and Mortgage Lender/Brokers -- $50,000
- Surety Co. is required to provide SCC with 90 days notice of cancellation

Administrative Letter 1609 Surety Bonds

(continued)

- Bureau sends notice to licensee before bond coverage lapses, with warning that failure to maintain bond will result in revocation of license

Surety Bond Claims

- Bureau can file claim against the licensee's surety bond for damages resulting from licensee's noncompliance with any condition of the bond
  - since mid 1998, bond claims totaling $167,049 have been filed against mortgage licensees and paid by their surety companies (not including claims to 3rd parties)

Tips for Preparing Response:

- Include documentation which supports corrective action taken and compliance procedures implemented (i.e.: revised forms/disclosures, copy of refund checks, copy of 3rd party fee invoices, revisions to compliance procedures)
- Thoroughly read cover letter and respond to all issues addressed in Report and cover letter
- Respond within the time frame requested (Ref. 10 VAC 5-160-50)

Follow-up Examination

- Typically scheduled after an unsatisfactory exam
- Conducted to determine if new policies and/or procedures have been implemented and are effective in improving compliance
- If repeated violations are found during follow-up, additional action may be taken (fine, suspension, revocation)

Company Purge of Loan Files

- May be required if examiner finds trends regarding overcharge violations
- Licensee must review all Virginia files originated during the examination period to determine if additional violations exist

Company Purge of Loan Files

- Licensee will be asked to provide details of purge – list of loans reviewed, violations found and refunds made
- Recent purge by a MLB licensee resulted in **$37,800** in additional overcharges due to the collection of prohibited 2nd mortgage fees

Regulatory Action:

- Imposition of fines per §6.1-428 of the Code of Virginia
  - Up to $2,500 for *each* violation of the Mortgage Lender and Broker Act
- Suspension or revocation of license per §6.1-425 of the Code of Virginia

Chapter 16 Mortgage Lender and Broker Act

- §6.1-425.1 Suspension (effective 7/1/03)
  - Subsection A: After providing notice and opportunity for a hearing, the Commission has authority to censure, suspend (for a defined period of time) or bar a person from any position of employment, management or control of any licensee if it is found that:

Chapter 16 Mortgage Lender and Broker Act

- §6.1-425.1
  - Subsection A (continued)
    - the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of the Mortgage Lender and Broker Act or any rule, regulation or order of the Commission; or

Chapter 16 Mortgage Lender and Broker Act

Subsection A (continued)

- the person has either
  - been convicted of, or pled guilty or nolo contendere to, any crime, or
  - held liable in any civil action by final judgment or administrative judgment by any public agency

  and
  - the criminal, civil or administrative judgment involves an offense reasonably related to the qualifications, functions or duties of a person engaged in the mortgage lender or broker business.

Chapter 16 Mortgage Lender and Broker Act

- §6.1-425.1 Suspension (continued)
  - Subsection B
    - Prohibits persons suspended or barred from participating in any business activity of a licensee and from engaging in any activity at the location where a licensee conducts its business
  - Subsection C
    - applies to any violation, conviction, plea or judgment after July 1, 2003

BFI web site

- www.scc.virginia.gov/division/banking
  - Virginia laws, regulations, letters
  - List of regulatory action taken -- fines, revocations, denials
  - past issues of *The Compliance Connection*
  - list of licensed mortgage lenders and brokers
  - application forms
  - how to file a complaint

Contacting the BFI

- Prefer that compliance questions come from individual(s) responsible for the company's compliance, not from branch personnel – branch managers, loan officers, processors
- Bureau does not set corporate policy and sometimes corporate policy may be more strict than Virginia laws/regulations

Contacting the BFI

- Exam results show licensees who establish compliance policies and monitor branches are more likely to avoid violations and regulatory action

HUD – RESPA

- www.hud.gov
- Office of RESPA (202)708-0502
- On the right side of the screen, look for the tab that says “Information for Housing Industry” and click on “Lenders”. Under the “Resources” heading, there is a link to the RESPA page
  - Statutes, Rules & Regulations, Proposed Rules, Statements of Policy, FAQ’s, Settlement Agreements

Federal Trade Commission

- www.ftc.gov
- On left side of page, click on “For Business”, then “Business Publications”, then choose a topic - “Advertising”, “Credit”, “Privacy”, etc.

Federal Reserve Bank

- For printed copies of federal regulations (Reg Z – Truth in Lending, Reg B – Equal Credit Opportunity Act) contact the closest Federal Reserve Bank, Publications Office.
- Ask for the Regulation *and* the Commentary. (The Commentary sometimes is easier to understand.)

BFI Consumer Finance and Mortgage Section

1300 East Main Street, Suite 800
Richmond, Virginia 23219
(804) 371-9701
(804) 371-9416 facsimile

Commissioner E. J. “Joe” Face
Deputy Commissioner Susan E. Hancock

9. Mortgage Broker Report of Examination

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NOTICE

THIS REPORT OF EXAMINATION IS CONFIDENTIAL

This Report of Examination has been completed by Analysts appointed by the State Corporation Commission of Virginia for use in its supervision of mortgage lenders and brokers. This copy of the Report is the property of the State Corporation Commission and is furnished to the licensee for its confidential use and information.

It is recommended that each owner, director, or senior officer, in accordance with individual responsibilities, thoroughly review the Report. It is emphasized that this Examination is not to be construed as an audit, nor should this Report be considered an audit report.

COMMENTS AND CONCLUSIONS

The scope of the examination included an analysis of the activities of the licensee to determine whether 1) the requirements of law and regulation are being complied with, 2) the practices and policies of the licensee have a potentially adverse impact on prospective borrowers, and 3) the business is being operated efficiently, fairly and in the public interest. The following includes a summary of the conditions, policies and practices of the licensee which violate law and regulation and/or require the immediate attention of management:

_____
Analyst-in-Charge

COMMENTS AND CONCLUSIONS (con't)

_____
Analyst-in-Charge

COMMENTS AND CONCLUSIONS (con't)

_____
Analyst-in-Charge

License No. _____
Exam Date _____

MORTGAGE LOANS
VIOLATIONS OF LAW AND REGULATION

NAME AND LOAN NO.	CODE	EXPLANATION/DESCRIPTION

CODE FOR TYPE OF VIOLATION

1. Licenses, place of business, changes (§ 6.1-416)
2. Books, accounts, and records (§ 6.1-417)
3. Prohibited practices (§ 6.1-422)
4. Escrow accounts (§ 6.1-423)
5. Advertising (§ 6.1-424)
6. Related Virginia statutes (identify)
7. Virginia Administrative Code (10 VAC 5-160)
8. Federal Regulation Z, Truth-in-Lending
9. Real Estate Settlement Procedures Act
10. Overcharges (identify)
11. Other (identify)

License No. _____
Exam Date _____

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License No. _____
Exam Date _____

EXAMINER'S QUESTIONNAIRE
MORTGAGE BROKERS REGULATORY COMPLIANCE

LICENSE, PLACE OF BUSINESS, CHANGES (§ 6.1-416 of the Code of Virginia)

1. Is the license prominently posted in the place of business?

2. Identify names or addresses used other than that set forth on the license issued by the Commission. If any changes, report the date the licensee notified the Commission.

3. Has this office or any licensed office relocated since the previous examination? If so, was an application filed with the Bureau and approval obtained prior to opening?

4. List name and position of all new senior officers (within three levels of the CEO), members, partners, principals (with 10% or more ownership) and/or directors of the licensee since the previous examination.

BOOKS, ACCOUNTS AND RECORDS (§ 6.1-417 of the Code of Virginia)

5. Are books, accounts and records maintained apart and separate from any other business in which the licensee is involved, and are such books, accounts and records maintained in licensed offices?

6. Does the licensee retain the original contract for compensation, a copy of the settlement statement, an account of fees received in connection with brokering the mortgage loan and all other required documents required by Rule or Regulation (e.g. good faith estimate, early truth-in-lending disclosure, etc.) for at least three years after the mortgage loan is made? Describe exceptions:

PROHIBITED PRACTICES (§ 6.1-422 of the Code of Virginia)

7. In the loans reviewed, did the licensee obtain any agreements or instruments in which blanks were left to be filled in after execution?

8. In the loans reviewed, did the licensee take an interest in collateral other than the real estate or residential property, including fixtures and appliances thereon, securing a mortgage loan?

9. In the loans reviewed, did the licensee obtain any exclusive dealing or agency agreement from any borrower?

10. In the loans reviewed, did the licensee delay any mortgage loan closing for the purpose of increasing interest costs, fees or charges payable by the borrower?

11. In the loans reviewed, did any agreements or instruments executed by borrowers contain an acceleration clause permitting the unpaid balance of a mortgage loan to be declared due for any reason other than failure to make timely payments of interest and principal or to perform other obligations undertaken in the agreement or instrument?

12. In the loans reviewed, did the licensee receive compensation from a borrower, except for documented cost of credit report and appraisals, before a written commitment to make a mortgage loan was given to the borrower by the mortgage lender?

13. In the loans reviewed, did the licensee receive compensation from a mortgage lender of which he is a principal (with 10% or more ownership), partner, trustee, director, senior officer and/or employee of the mortgage lender?

14. In the loans reviewed, did the licensee receive compensation from a borrower in connection with any mortgage loan transaction in which he is the lender or a principal (with 10% or more ownership), partner, trustee, director and/or senior officer of the mortgage lender?

15. In the loans reviewed, did the licensee receive compensation from a borrower other than that specified in a written agreement signed by the borrower?

16. In the loans reviewed, did the licensee receive compensation for negotiating, placing or finding a mortgage loan where such mortgage broker, or any person affiliated with such broker, has otherwise acted as a real estate broker, agent or salesman in connection with the sale of real estate? If no, skip to question #17.

A) If licensed prior to February 25, 1989, did the licensee give the borrower the required written notice at the time the mortgage broker's services were first offered?

ADVERTISING (§ 6.1-424 of the Code of Virginia)

17. Does the licensee advertise? If no, skip to question #18.

A) Does the advertising contain false, misleading or deceptive statements or representations?

B) Does the advertising identify the licensee by any name other than the name set forth on the license issued by the Commission?

C) Does the advertising contain violations of Regulation Z?

D) Doest the advertising comply with the provisions of 10VAC50160-60?

RELATED VIRGINIA STATUTES

18. Does the licensee provide a disclosure to each first mortgage applicant in accordance with § 6.1-2.9:5 of the Code of Virginia? Describe exceptions:

19. For rejected or turned down loans:

A) Does the licensee deliver adverse action notices to affected borrowers in accordance with the requirements of Federal Regulation B (ECOA) and § 59.1-21.21:1 of the Code of Virginia?

B) Does the adverse action notice contain information required by Regulation B?

C) Are adverse action notices retained for 25 months as required by Regulation B?

VIRGINIA ADMINISTRATIVE CODE

20. Was any evidence uncovered indicating the licensee misrepresented the qualification requirements for a mortgage loan or misrepresented any material loan terms? (10 VAC 5-160-20)

21. Are all disbursements for fees paid to third parties supported by adequate documentation? (10 VAC 5-160-20)

22. Are all moneys for third parties deposited into an escrow account in a bank, savings institution, or credit union segregated from other funds of the licensee? (10 VAC 5-160-20)

23. Does the licensee issue pre-approvals? If no, skip to question #24.

A) Does the licensee give the required written disclosure in accordance with 10VAC5-160-20(6)?

24. Does the licensee issue lock-in agreements? If no, skip to question #25.

A) Does the agreement comply with the requirements set forth in 10 VAC 5-160-30?

B) Does the mortgage broker maintain supporting written documentation from the mortgage lender of all lock-in information for at least three years from the date the lock-in expires?

25. Does the licensee issue commitment agreements? If no, skip to question #26.

A) Does the agreement include all the information required by 10 VAC 5-160-30?

OTHER DATA

26. Are all applicants given good faith estimates in compliance with the Real Estate Settlement Procedures Act?

27. If the licensee operates branch offices, were those offices examined? If branch examinations were not conducted, please explain the basis for your decision.

28. List violations found during this examination that are similar to those found during the previous examination.

29. Is the loan data listed on Page 11 of this Report comparable to the loan data submitted on the licensee's most recent Annual Report to the Bureau? If not, attach written explanation from the licensee.

30. Was the licensee listed as payee on any mortgage loans closed? If so, on how many loans? If more than three loans were made in a period of twelve consecutive months, include documentation (e.g. settlement statements, notes, etc.) to support this finding.

31. Are loan officers/originators and/or processors common law employees of the licensee? Indicate the types of methods used to verify your response.

32. In the loans reviewed, has the licensee ever co-brokered any mortgage loans? If no, skip to question #33.

A) Provide the names of the other companies/individuals that were compensated.

B) Are these companies licensed?

33. Do you recommend a follow-up examination?

34. Do you recommend regulatory action?

35. Date Examination began:_____

Date Examination ended:_____

I, the Analyst-in-Charge, hereby certify that the forgoing responses are true and correct to the best of my knowledge and belief.

_____
Analyst-in-Charge

Bureau of Financial Institutions
State Corporation Commission
Commonwealth of Virginia

License No. _____
Exam Date _____

Time Sheet
Addendum to Examination Report For
Mortgage Licensee Examinations

EXAMINERS	HOURS WORKED On-Site	HOURS WORKED Off-Site		NUMBER OF LOANS *Made	NUMBER OF LOANS Examined	%
1. _____	_____	_____	Broker	_____	_____	_____
2. _____	_____	_____	Lender	_____	_____	_____
3. _____	_____	_____	Turndown	_____	_____	_____
4. _____	_____	_____	Paid	_____	_____	_____
TOTAL			Loans in Process	_____	_____	_____

* Number of loans made or brokered since previous examination

Confidential Comments:

_____
Analyst-in-Charge

License No. _____
Exam Date _____

MORTGAGE LOAN DATA
(Loans Secured by Virginia Property Only)

Period of Examination: _____ to _____

Loans Brokered by the Licensee

First Liens		Subordinate Liens		**Totals**	
Number	Amount	Number	Amount	Number	Amount

Loans in Process
(as of the examination date)

	Number	Amount
Loans in process:		
Approved and/or firm commitments issued:		

Adverse Action Loans

	Number
Loans turned down/rejected by licensee:	
Loans withdrawn by borrower:	

Other Data

RATES AND CHARGES				
		High		Low
Interest Rate			to	
Points			to	
Appraisal			to	
Credit Report			to	
Processing			to	
Other			to	
Other			to	

License No. _____
Exam Date _____

OFFICER'S QUESTIONNAIRE – MORTGAGE BROKERS

NOTE: Each request for information requires a detailed answer by a ***senior officer*** (a person who has significant management responsibility within an organization or otherwise has the authority to influence or control the conduct of the organization's affairs, including but not limited to its compliance with applicable laws and regulations) of the licensee. Supporting schedules must be attached where space provided is inadequate. **Respond to these questions based on business conducted since the previous examination (or if this is your first examination, since date of licensing).** If any request is not applicable, insert "N/A".

---

1. What is the primary business of the licensee (e.g. originator, servicer, retail, wholesale, prime, sub-prime)?

2. List other types of businesses owned and/or operated by the **licensee**, other professional licenses held, and percentage of total income derived from each business.

3. A) List all addresses where the licensee conducts mortgage business operations pursuant to the Virginia Mortgage Lender and Broker Act.

   B) Are these offices licensed?

   C) Provide the address of the licensee's corporate office.

   D) What is the mailing address of the licensee?

   E) Where and to whom should the Report of Examination be sent?

4. Please answer the following questions if the licensee operates any additional office(s) (e.g. branch offices, net branch offices, satellite offices, etc):

A) How are branch managers compensated?

B) Is a branch manager's compensation based on the net profit of their branch?

C) Are branch managers responsible for paying any of the expenses of the branch; e.g. rent, telephone, utilities, branch employees, etc.?

D) Are branch managers required to issue a personal check to cover the operating expenses of their branch?

E) Are contracts with vendors such as leases, telephones, utilities, and advertising written in the name of the licensee?

F) Has the licensee executed any agreements/contracts with any branch, branch manager and/or branch employees? If yes, attach a copy of any such agreements/contracts.

G) Does the branch manager own a separate company (e.g. marketing, processing, etc.) that is compensated in any way by the licensee?

5. Provide the name, address, telephone number and e-mail address of the following:

Legal Counsel:

Registered Agent:

Person in charge of compliance:

Person in charge of complaints:

6. List the name and position of all current senior officers (a person who has significant management responsibility within an organization or otherwise has the authority to influence or control the conduct of the organization's affairs, including but not limited to its compliance with applicable laws and regulations), members, partners, principals (with 10% or more ownership) and/or directors of the licensee. If any changes have occurred, submit a copy of the notification the licensee sent to the Bureau.

7. List the states in which the licensee engages in business as a residential mortgage lender and/or broker. (Do not provide copies of the licenses.)

8. Please respond to the following questions as they relate to **all** business conducted by the licensee since the previous examination; e.g. if the licensee's operations extend beyond Virginia, please do not limit your responses solely to matters involving loans secured by Virginia property. If the answer is **"yes"** to any of these questions, please provide details on a separate attachment. Has the licensee:

A) Been requested to repurchase any mortgage loan, pay a settlement in lieu of repurchasing the mortgage loan, or return a yield spread premium to a lender/investor?

B) Been suspended or terminated by any lender/investor?

C) Been advised that a lender/investor discovered items of misrepresentation and/or fraud within any loan originated or closed by your company?

D) Terminated any employee for involvement in misrepresentation and/or fraud?

E) Been denied a license/registration or approval and/or had a license/registration suspended or revoked by any state or governmental agency?

F) Had any administrative order (e.g. cease and desist order, revocation of license, etc.) issued against the licensee by any governmental agency?

9. Has the licensee been involved in <u>any</u> litigation that could materially affect the financial condition of the licensee? If so, give names of plaintiff, amounts sued for, nature and basis for litigation and probable result.

10. Has any principal (with 10% or more ownership), director, senior officer (a person who has significant management responsibility within an organization or otherwise has the authority to influence or control the conduct of the organization's affairs, including but not limited to its compliance with applicable laws and regulations) or employee of the licensee criminally misused, embezzled, abstracted or willfully misapplied any funds or valuables for which the licensee is responsible? If so, explain fully.

11. Has any principal (with 10% or more ownership), director, senior officer (a person who has significant management responsibility within an organization or otherwise has the authority to influence or control the conduct of the organization's affairs, including but not limited to its compliance with applicable laws and regulations) or employee at any time been convicted of a felony? If so, give the name(s) and explain the nature of the conviction.

12. Has any principal (with 10% or more ownership), director, senior officer (a person who has significant management responsibility within an organization or otherwise has the authority to influence or control the conduct of the organization's affairs, including but not limited to its compliance with applicable laws and regulations) or employee at any time been indicted for any criminal offense? If so, give their name(s) and explain the nature of the indictment.

13. Have there been any judgments filed against and/or any bankruptcy filed by the licensee? If so, explain fully.

14. Has the licensee notified the Commissioner within 15 days of the occurrence of any events set forth in § 6.1-425.2 of the Code of Virginia and 10VAC5-160-20(5)?

15. Are the licensee's books audited at least once a year by a certified public accountant and/or by any personnel of the licensee? Provide a copy of the most recent financial statements/audit.

16. Are all moneys received for fees paid to third parties (including fees for appraisal, credit report, courier, etc.) maintained in a separate escrow account? Please provide a copy of the most recent bank statement for this account.

17. Has the licensee originated any “High Cost Mortgage” loans on owner-occupied residential property located in the Commonwealth of Virginia? If yes, describe what methods or procedures the licensee uses to determine if mortgage loans are high cost pursuant to Regulation Z § 226.32.

18. Are any of the licensee’s accounts delinquent (more than 30 days past due)? If so, list the names, addresses and telephone numbers of the companies or individuals and the amounts owed.

19. Does any of the licensee’s personnel have a direct or indirect ownership (e.g. personnel having interest in title company, appraiser, real estate agent/broker/salesman, builder/developer, etc.) in any enterprises doing business with the licensee. If so, list the other businesses and furnish a copy of the “Affiliated Business Arrangement" disclosure.

20. Has any employee or person of the licensee received any commission, fee or rebate from any third party (ex. title company, appraiser, real estate agent/broker/salesman, builder/developer, etc.) for any business placed through, by or with the third party. Please give details.

21. Has any employee or person of the licensee paid any commission, fee or rebate to any third party (e.g. title company, appraiser, real estate agent/broker/salesman, builder/developer, etc.) for any business placed through, by or with the licensee. Please give details.

22. In connection with a **first** mortgage loan, list the types of fees (e.g. processing fee, tax service, application fee, etc.) charged to the borrower and/or received by the licensee.

23. In connection with a **subordinate** mortgage loan, list the types of fees (e.g. credit report, appraisal fee, etc.) charged to the borrower and/or received by the licensee.

24. What is the average amount of time elapsed between accepting a loan application and loan closing?

25. What action is taken or procedure followed for rejected, canceled or withdrawn loans?

26. Does the licensee advertise for Virginia mortgage loans?

27. Has the licensee ever compensated another mortgage broker (including third party processors)? If no, skip to question #28.

A) Provide the name(s) of any such broker(s).

B) What services are being provided by each mortgage broker?

C) Have any of the services been duplicated?

28. Has the licensee ever received compensation for negotiating, placing or finding a mortgage loan where such mortgage broker, or any person affiliated with such mortgage broker, has acted as a real estate broker, agent or salesman in connection with sale of the real estate that secures the mortgage loan?

29. Is the licensee listed as "payee" on any mortgage loan note? If so, how many loans were closed in this manner in the past twelve months.

30. Does the licensee broker FHA/VA loans on property located in Virginia?

31. List the names, addresses, and telephone numbers of all lenders who have closed and funded mortgage loans for the licensee on Virginia property since the previous examination:

32. Please provide a list of all loan officers/originators and processors (include full name) who have originated or processed mortgage loans on Virginia property during the examination period.

33. Has the licensee informed a consumer that such consumer has been or will be "preapproved" or "pre-approved" for a mortgage loan on property located in the Commonwealth of Virginia?

34. Does the licensee have a written information security program as required by the Gramm-Leach-Bliley Safeguards Rule?

35. Provide addresses of any Internet site used by the licensee for advertising, soliciting and/or originating Virginia mortgage loans.

***<u>The responses to the above questions must be certified below by a senior officer</u>*.**

_____ _____ of
Senior Officer's Name (Print) **Title**

_____ do hereby certify
Name of Licensee

that the foregoing responses and attachments (on Pages 11-19) are true and correct to the best of my knowledge and belief. I understand Virginia law requires me to furnish the information herein and giving false information may subject me to penalties prescribed by law. Answers are to be comprehensive and failure to provide, knowingly, part of the information requested will be considered a violation of law.

_____ _____
Signature **Date**

10. Mortgage Lender and Broker Report of Examination

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It is recommended that each owner, director, or senior officer, in accordance with individual responsibilities, thoroughly review the Report. It is emphasized that this Examination is not to be construed as an audit, nor should this Report be considered an audit report.

COMMENTS AND CONCLUSIONS

The scope of the examination included an analysis of the activities of the licensee to determine whether 1) the requirements of law and regulation are being complied with, 2) the practices and policies of the licensee have a potentially adverse impact on prospective borrowers, and 3) the business is being operated efficiently, fairly and in the public interest. The following includes a summary of the conditions, policies and practices of the licensee which violate law and regulation and/or require the immediate attention of management:

_____
Analyst-in-Charge

COMMENTS AND CONCLUSIONS (con't)

_____
Analyst-in-Charge

COMMENTS AND CONCLUSIONS (con't)

_____
Analyst-in-Charge

License No. _____
Exam Date _____

MORTGAGE LOANS
VIOLATIONS OF LAW AND REGULATION

NAME AND LOAN NO.	CODE	*	EXPLANATION/DESCRIPTION

CODE FOR TYPE OF VIOLATION

1. Licenses, place of business, changes (§ 6.1-416)
2. Books, accounts, and records (§ 6.1-417)
3. Prohibited practices (§ 6.1-422)
4. Escrow accounts (§ 6.1-423)
5. Advertising (§ 6.1-424)
6. Related Virginia statutes (identify)
7. Virginia Administrative Code (10 VAC 5-160)
8. Federal Regulation Z, Truth-in-Lending
9. Real Estate Settlement Procedures Act
10. Overcharges (identify)
11. Other (identify)

*Indicates whether licensee made/originated (L) or brokered (B) loan

License No. _____
Exam Date _____

MORTGAGE LOANS
VIOLATIONS OF LAW AND REGULATION

NAME AND LOAN NO.	CODE	*	EXPLANATION/DESCRIPTION

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License No. _____
Exam Date _____

MORTGAGE LOANS
VIOLATIONS OF LAW AND REGULATION

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Exam Date _____

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11. Other (identify)

*Indicates whether licensee made/originated (L) or brokered (B) loan

License No. _____
Exam Date _____

EXAMINER'S QUESTIONNAIRE
MORTGAGE LENDERS AND BROKERS REGULATORY COMPLIANCE

LICENSE, PLACE OF BUSINESS, CHANGES (§ 6.1-416 of the Code of Virginia)

1. Is the license prominently posted in the place of business?

2. Identify names or addresses used other than that set forth on the license issued by the Commission. If any changes, report date the licensee notified the Commission.

3. Has this office or any licensed office relocated since the previous examination? If so, was an application filed with the Bureau and approval obtained prior to opening?

4. List name and position of all new senior officers (within three levels of the CEO), members, partners, principals (with 10% or more ownership) and/or directors of the licensee since the previous examination.

BOOKS, ACCOUNTS AND RECORDS (§ 6.1-417 of the Code of Virginia)

5. Are books, accounts and records maintained apart and separate from any other business in which the licensee is involved, and are such books, accounts and records maintained in licensed offices?

6. Does the mortgage lender retain copies of the note, settlement statement, truth-in-lending disclosure and all other documents required by Rule or Regulation (e.g. lock-in agreement, good faith estimate, etc.) for at least three years after final payment is made on any mortgage loan or the mortgage loan is sold? Describe exceptions.

7. Does the mortgage broker retain the original contract for compensation, a copy of the settlement statement, an account of fees received in connection with brokering the mortgage loan, and all other required documents required by Rule or Regulation (e.g. good faith estimate, early truth-in-lending disclosure, etc.) for at least three years after the mortgage loan is made? Describe exceptions.

PROHIBITED PRACTICES (§ 6.1-422 of the Code of Virginia)

8. In the loans reviewed, did the licensee obtain any agreements or instruments in which blanks were left to be filled in after execution?

9. In the loans reviewed, did the licensee take an interest in collateral other than the real estate or residential property, including fixtures and appliances thereon, securing a mortgage loan?

10. In the loans reviewed, did the licensee obtain any exclusive dealing or agency agreement from any borrower?

11. In the loans reviewed, did the licensee delay any mortgage loan closing for the purpose of increasing interest costs, fees or charges payable by the borrower?

12. In the loans reviewed, did any agreements or instruments executed by borrowers contain an acceleration clause permitting the unpaid balance of a mortgage loan to be declared due for any reason other than failure to make timely payments of interest and principal or to perform other obligations undertaken in the agreement or instrument?

13. In the loans reviewed, did the licensee (when acting as a mortgage broker) receive compensation from a borrower, except for documented cost of credit report and appraisals, before a written commitment to make a mortgage loan was given the borrower by the mortgage lender?

14. In the loans reviewed, did the licensee (when acting as a mortgage broker) receive compensation from a mortgage lender of which he is a principal (with 10% or more ownership), partner, trustee, director, senior officer and/or employee?

15. In the loans reviewed, did the licensee (when acting as a mortgage broker) receive compensation from a borrower in connection with any mortgage loan transaction in which he is the lender or a principal (with 10% or more ownership), partner, trustee, director and/or senior officer of the lender?

16. In the loans reviewed, did the licensee (when acting as a mortgage broker) receive compensation from a borrower other than that specified in a written agreement signed by the borrower?

17. In the loans reviewed, did the licensee (when acting as a mortgage broker) receive compensation for negotiating, placing or finding a mortgage loan where such mortgage broker, or any person affiliated with such broker, has otherwise acted as a real estate broker, agent or salesman in connection with the sale of real estate? If no, skip to question #18.

    A) If licensed prior to February 25,1989, did the licensee give the borrower the required written notice at the time the mortgage broker's services were first offered?

SERVICING

18. Does the licensee service mortgage loans on owner-occupied residential property located in the Commonwealth of Virginia? If no, skip to question #19.

    A) Are all moneys, paid by borrowers into escrow to defray future taxes or insurance premiums, or for any other lawful purpose, kept in accounts segregated from other accounts of the licensee?

B) Has the licensee failed to make timely payments of taxes and insurance when sufficient funds were held in escrow? (§ 6.1-2.8 of the Code of Virginia)

C) When timely payments for taxes and insurance are not made, who paid the penalty and/or late charge?

D) Was the borrower notified of such penalty and/or late charge? If so, when was the borrower notified?

E) Has the licensee ever failed to return to the customer unearned premiums for private mortgage insurance? (§ 6.1-2.9:1 of the Code of Virginia)

F) Has the licensee ever imposed late charges in excess of that permitted by § 6.1-330.80 of the Code of Virginia?

G) When a mortgage loan is paid in full, is the lien promptly released and all papers returned to the borrower? (§§ 55-66.3 and 6.1-330.82 of the Code of Virginia)

H) Are prepayment penalties levied in accordance with §§ 6.1-330.83 and 6.1-330.85 of the Code of Virginia?

ADVERTISING (§ 6.1-424 of the Code of Virginia)

19. Does the licensee advertise? If no, skip to question #20.

A) Does the advertising contain false, misleading or deceptive statements or representations?

B) Does the advertising identify the licensee by any name other than the name set forth on the license issued by the Commission?

C) Does the advertising contain violations of Regulation Z?

D) Does the advertising comply with the provisions of 10VAC5-160-60?

RELATED VIRGINIA STATUTES

20. Is there evidence that loans secured by mortgages or deeds of trust prohibit the further encumbrance of the real property? (§ 6.1-2.5 of the Code of Virginia)

21. Does the licensee require the borrower to purchase property insurance coverage in an amount exceeding the replacement value of the improvements on the real property? (§ 6.1-2.6:1 of the Code of Virginia)

22. Does the licensee allow for the assumption of real estate mortgage loans? If yes, list instances where the required terms of assumption have not been disclosed in accordance with § 6.1-2.9:3 of the Code of Virginia.

23. Does the licensee provide a disclosure to each first mortgage applicant in accordance with § 6.1-2.9:5 of the Code of Virginia? Describe exceptions.

24. Does the licensee require the borrower to use the services of a particular attorney, surveyor or insurer? (§ 6.1-330.70 of the Code of Virginia)

25. Are mortgage loans written with a prepayment penalty provision? (§§ 6.1-330.83 and 6.1-330.85 of the Code of Virginia)?

26. Is the required notice given for mortgage notes or deeds of trust which contain a provision that the holder may accelerate payment or re-negotiate the terms of the loan upon sale or conveyance of the property? (§ 6.1-330.88 of the Code of Virginia)

27. For rejected or turned down loans:

    A) Does the licensee deliver adverse action notices to affected borrowers in accordance with the requirements of Federal Regulation B (ECOA) and § 59.1-21.21:1 of the Code of Virginia?

    B) Does the adverse action notice contain information required by Regulation B?

    C) Are adverse action notices retained for 25 months as required by Regulation B?

VIRGINIA ADMINISTRATIVE CODE

28. Was any evidence uncovered indicating the licensee misrepresented the qualification requirements for a mortgage loan or misrepresented any material loan terms? (10 VAC 5-160-20)

29. Are all disbursements for fees paid to third parties supported by adequate documentation? (10 VAC 5-160-20)

30. Are all moneys for third parties deposited into an escrow account in a bank, savings institution, or credit union segregated from other funds of the licensee? (10 VAC 5-160-20)

31. In the loans reviewed, did the licensee provide adequate notice of the transfer of servicing rights? Describe exceptions. (10 VAC 5-160-20 and RESPA, Section 6)

32. Does the licensee issue pre-approvals? If no, skip to question #33.

A) Does the licensee give the required written disclosure in accordance with 10VAC5-160-20(6)?

33. Does the licensee issue lock-in agreements? If no, skip to question #34.

A) Does the agreement comply with the requirements set forth in 10 VAC 5-160-30?

B) When acting as a mortgage broker, does the licensee maintain supporting documentation from the mortgage lender of all lock-in information for at least 3 years from the date the lock-in expires?

34. Does the licensee issue commitment agreements? If no, skip to question #35.

A) Does the agreement include all the information required by 10 VAC 5-160-30?

35. Are commitment fees charged to borrowers? If no, skip to question #36.

A) Are commitment fees refunded to loan applicants when the loan does not close due to any one of the reasons set forth in 10 VAC 5-160-30?

OTHER DATA

36. Are all applicants given good faith estimates in compliance with the Real Estate Settlement Procedures Act?

37. In the loans reviewed, did the licensee co-broker any mortgage loans? If no, skip to question #38.

A) Provide the names of the other companies/individuals that were compensated.

B) Are these companies/individuals licensed?

38. Are loan officers/originators and processors common law employees of the licensee? Indicate the types of methods used to verify your response?

39. During the examination period, did the licensee continuously maintain $200,000 in funds available for the operation of business in compliance with § 6.1-415 of the Code of Virginia and BFI-AL-1604?

40. If the licensee operates branch offices, were those offices examined? If branch examinations were not conducted, please explain the basis for your decision.

41. List violations found during this examination that are similar to those found during the previous examination.

42. Is the loan data listed on Page 13 of this Report comparable to the loan data submitted on the licensee's most recent Annual Report to the Bureau? If not, attach written explanation from the licensee.

43. Do you recommend a follow-up examination?

44. Do you recommend regulatory action?

45. Date Examination began:_____

Date Examination ended:_____

I, the Analyst-in-Charge, hereby certify that the following responses are true and correct to the best of my knowledge and belief.

_____
Analyst-in-Charge

Bureau of Financial Institutions
State Corporation Commission
Commonwealth of Virginia

License No. _____
Exam Date _____

Time Sheet
Addendum to Examination Report For Mortgage Licensee Examinations

EXAMINERS	HOURS WORKED On-Site	HOURS WORKED Off-Site		NUMBER OF LOANS *Made	NUMBER OF LOANS Examined	%
1. _____	_____	_____	Broker	_____	_____	_____
2. _____	_____	_____	Lender	_____	_____	_____
3. _____	_____	_____	Turndown	_____	_____	_____
4. _____	_____	_____	Paid	_____	_____	_____
TOTAL	_____	_____	Loans in Process	_____	_____	_____

* Number of loans made or brokered since previous examination

Confidential Comments:

_____
Analyst-in-Charge

License No. _____
Exam Date _____

MORTGAGE LOAN DATA
(Loans Secured by Virginia Property Only)

Period of Examination: _____ to _____

Loans Brokered by the Licensee

First Liens		Subordinate Liens		**Totals**	
Number	Amount	Number	Amount	Number	Amount

Loans Closed in the Name of the Licensee

First Liens		Subordinate Liens		**Totals**	
Number	Amount	Number	Amount	Number	Amount

Loans in Process
(as of the examination date)

	Number	Amount
Loans in process:		
Approved and/or firm commitments issued:		

Adverse Action Loans

	Number
Loans turned down/rejected by licensee:	
Loans withdrawn by borrower:	

Other Data

RATES AND CHARGES					**DELINQUENT OR PAST DUE**		
		High		Low		Number	Amount
Interest Rate			to		Two Months		
Points			to		Three Months		
Appraisal			to		Four Months		
Credit Report			to		Over Four		
Processing			to		Over Six Months		
Other			to		Foreclosures		
Other			to				

License No. _____
Exam Date _____

OFFICER'S QUESTIONNAIRE - MORTGAGE LENDERS AND BROKERS

NOTE: Each request for information requires a detailed answer by an ***officer*** of the licensee. Supporting schedules must be attached where space provided is inadequate. **Respond to these questions based on business conducted since the previous examination (or if this is your first examination, since date of licensing).** If any request is not applicable, insert "N/A".

---

1. What is the primary business of the licensee (e.g. originator, servicer, retail, wholesale, prime, sub-prime)?

2. List other types of businesses owned and/or operated by the **licensee**, other professional licenses held, and percentage of total income derived from each business.

3. A) List all addresses where the licensee conducts mortgage business operations pursuant to the Virginia Mortgage Lender and Broker Act.

   B) Are these offices licensed?

   C) Provide the address of the licensee's corporate office.

   D) What is the mailing address of the licensee?

   E) Where and to whom should the Report of Examination be sent?

4. Please answer the following questions if the licensee operates any additional office(s) (e.g. branch offices, net branch offices, satellite offices, etc.):

A) How are branch managers compensated?

B) Is a branch manager's compensation based on the net profit of their branch?

C) Are branch managers responsible for paying any of the expenses of the branch; e.g. rent, telephone, utilities, branch employees, etc.?

D) Are branch managers required to issue a personal check to cover the operating expenses of their branch?

E) Are contracts with vendors such as leases, telephones, utilities, and advertising written in the name of the licensee?

F) Has the licensee executed any agreements/contracts with any branch, branch manager and/or branch employees? If yes, attach a copy of any such agreements/contracts.

G) Does the branch manager have a separate company (e.g. marketing, processing, etc.) that is compensated in any way by the licensee?

5. Provide the name, address, telephone number and e-mail address of the following:

Legal Counsel:

Registered Agent:

Person in charge of compliance:

Person in charge of complaints:

6. List the name and position of all current senior officers (within three levels of the CEO), members, partners, principals (with 10% of more ownership) and/or directors of the licensee. If any changes have occurred, submit a copy of the notification the licensee sent to the Bureau.

7. List the states in which the licensee engages in business as a residential mortgage lender and/or broker. (Do not provide copies of the licenses.)

8. Please respond to the following questions as they relate to **all** business conducted by the licensee since the previous examination; e.g. if the licensee's operations extend beyond Virginia, please do not limit your responses solely to matters involving loans secured by Virginia property. If the answer is "yes" to any of these questions, please provide details on a separate attachment. Has the licensee:

   A) Been requested to repurchase any mortgage loan, pay a settlement in lieu of repurchasing the mortgage loan, or return a yield spread premium to a lender/investor?

   B) Been suspended or terminated by any lender/investor?

   C) Been advised that a lender/investor discovered items of misrepresentation and/or fraud within any loan originated or closed by your company?

   D) Terminated any employee for involvement in misrepresentation and/or fraud?

   E) Been denied a license/registration or approval and/or had a license/registration suspended or revoked by any state or governmental agency?

F) Had any administrative order (e.g. cease and desist order, revocation of license, etc.) issued against the licensee by any governmental agency?

9. Has the licensee been involved in <u>any</u> litigation that could materially affect the financial condition of the licensee? If so, give names of plaintiff, amounts sued for, nature and basis for litigation and probable result.

10. Has any principal (with 10% or more ownership), director, senior officer or employee of the licensee criminally misused, embezzled, abstracted or willfully misapplied any funds or valuables for which the licensee is responsible? If so, explain fully.

11. Has any principal (with 10% or more ownership), director, officer or employee at any time been convicted of a felony? If so, give the name(s) and explain the nature of the conviction.

12. Has any principal (with 10% or more ownership), director, officer or employee at any time been indicted for any criminal offense? If so, give the name(s) and explain the nature of the indictment.

13. Have there been any judgments filed against and/or any bankruptcy filed by the licensee? If so, explain fully.

14. Has the licensee notified the Commissioner within 15 days of the occurrence of any events set forth in § 6.1-425.2 of the Code of Virginia and 10VAC5-160-20(5)?

15. Are the licensee's books audited at least once a year by a certified public accountant and/or by any personnel of the licensee? Provide a copy of the most recent financial statements/audit.

16. Please give details as to how the licensee has continuously maintained at least $200,000 in funds available for operation of the business as required by § 6.1-415 of the Code of Virginia and BFI-AL-1604 and submit supporting documentation.

17. Please list all mortgage-funding sources available to the licensee. Provide specific information regarding all warehouse lines of credit; e.g. name, contact person, address, and phone number of each warehouse lender.

18. Are warehouse lines of credit repaid directly by the permanent investor, or is payment made by the permanent investor directly to you?

19. Has any warehouse lender ever terminated a lending relationship with the licensee? If so, please provide the reason for termination and the name, contact person, address, and phone number of that warehouse lender.

20. A) Are you an approved FHA/VA lender? If so, please give the date of approval.

    B) Are you approved under the FHA direct endorsement program? If so, please give the date of approval.

    C) Are you an approved FHA/VA correspondent? If so, please give the date of approval.

21. Are all moneys received for fees paid to third parties (including fees for appraisal, credit report, courier, etc.) maintained in a separate escrow account? Please provide a copy of the most recent bank statement for this account.

22. Has the licensee originated any "High Cost Mortgage" loans on owner-occupied residential property located in the Commonwealth of Virginia? If yes, describe what methods or procedures the licensee uses to determine if mortgage loans are high cost pursuant to Regulation Z § 226.32.

23. Are any of the licensee's accounts delinquent (more than 30 days past due) with vendors (e.g. appraisers, credit reporting agencies, rent, etc.)? If so, list the names, addresses and telephone numbers of the companies or individuals and the amounts owed.

24. Does any of the licensee's personnel have a direct or indirect interest (e.g. personnel having interest in title company, appraisal, real estate agent/broker/salesman, builder/developer, etc.) in any enterprises doing business with the licensee. If so, list the other businesses and furnish a copy of the "Affiliated Business Arrangement" disclosure.

25. Has any employee or person of the licensee received any commission, fee or rebate from a third party (e.g. title company, appraiser, real estate agent/broker/salesman, builder/developer, etc.) for any business placed through, by or with the third party. Please give details.

26. Has any employee or person of the licensee paid any commission, fee or rebate to a third party (e.g. title company, appraiser, real estate agent/broker/salesman, builder/developer, etc.) for any business placed through, by or with the licensee. Please give details.

27. Does the licensee act as a wholesale lender? If no, skip to question #28.

A) Provide a list of names, addresses, telephone numbers and Virginia mortgage license number of mortgage brokers who have submitted loan applications to the licensee for compensation (fees, commissions or any other thing of value) by the licensee since the previous examination. **(Virginia property only)**

B) Has the licensee suspended or terminated *any* mortgage broker or required any mortgage broker to repurchase any loans? If yes, please provide the name and address of the mortgage broker(s), the reason for suspension, termination, or loan repurchase and provide the examiner with supporting documentation.

28. In connection with a **first** mortgage loan, list the types of fees (e.g. processing fee, tax service, application fee, lock-in fee, etc.) charged to the borrower and/or received by the licensee.

29. In connection with a **subordinate** mortgage loan, list the types of fees (e.g. credit report, appraisal fee, etc.) charged to the borrower and/or received by the licensee.

30. What is the average amount of time elapsed between accepting a loan application and loan closing?

31. What action is taken or procedure followed for rejected, canceled or withdrawn loans?

32. Does the licensee advertise for Virginia mortgage loans?

33. Does the licensee service mortgage loans on **owner-occupied residential property** located in the **Commonwealth of Virginia**? If no, skip to question #34.

A) How are customers notified of the transfer of the servicing rights or the sale of mortgage loans?

B) List any moneys paid into escrow by borrowers to defray future taxes and insurance premiums, or for any other purpose, in connection with a subordinate mortgage loan, except in the case where escrows are not being maintained for a superior first mortgage loan.

C) When is the escrow analysis of taxes and insurance for Virginia borrowers completed?

D) Has the licensee failed to make timely payments of taxes and insurance when sufficient funds were held in escrow?

E) When timely payments for taxes and insurance are not made, who paid the penalty and/or late charge?

F) Was the borrower notified of such penalty and/or late charge? If so, when was the borrower notified?

G) What fees are charged to the borrower in connection with a payoff?

34. Does the licensee broker mortgage loans on **owner-occupied residential property** located in the **Commonwealth of Virginia**? If no, skip to question #35.

A) Has the licensee received any compensation prior to settlement? If so, when is payment received and from whom?

B) Has the licensee ever received compensation for negotiating, placing or finding a mortgage loan where such mortgage broker, or any person affiliated with such mortgage broker, has acted as a real estate broker, agent or salesman in connection with sale of the real estate that secures the mortgage loan?

C) When acting as a mortgage broker, has the licensee ever compensated another mortgage broker (including third party processors)? If no, skip to sub-question D.

1) Provide the name(s) of any such broker(s).

2) What services are being provided by each mortgage broker?

3) Have any of the services been duplicated?

D) When acting as a mortgage broker, list the names, addresses and telephone numbers of lenders who have closed and funded mortgage loans since the previous examination.

35. Please provide a list of all loan officers/originators and processors (include full name and dates of employment) who originated or processed mortgage loans on Virginia property.

36. Does the licensee have a written information security program as required by the Gramm-Leach-Bliley Safeguards Rule?

37. Provide addresses of any Internet site used by the licensee for advertising, soliciting and/or originating Virginia mortgage loans.

<u>The responses to the above questions must be certified below by a senior officer.</u>

_____ _____ of
Senior Officer's Name (Print) **Title**

_____ do hereby certify
Name of Licensee

that the foregoing responses (on Pages 13 - 22) are true and correct to the best of my knowledge and belief. I understand Virginia law requires me to furnish the information herein and giving false information may subject me to penalties prescribed by law. Answers are to be comprehensive and failure to provide, knowingly, part of the information requested will be considered a violation of law.

_____ _____
Signature **Date**

11. Miscellaneous Documents (Internet Address, Law Book Information, Mortgage Association List)

INTERNET ADDRESS:

http://www.scc.virginia.gov/division/banking

LAWS OF VIRGINIA RELATED TO NON-DEPOSITORY FINANCIAL SERVICES
2004 EDITION

Lexus Publishing
1-800-446-3410
Product Number 3549815
www.lexisnexis.com

<u>Virginia Association of Mortgage Brokers</u>
Steve Baugher, Association Director
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Richmond, Virginia 23255
(804) 288-5544
FAX (804) 288-5559

<u>Virginia Mortgage Lenders Association</u>
www.virginiamla.com

<u>Mortgage Bankers Association of America</u>
1125 15th Street, NW
Washington, DC 20005
(202) 861-6500

<u>National Association of Mortgage Brokers</u>
8201 Greensboro Drive, Suite 300
McLean, Virginia 22102
(703) 610-9009
FAX (703) 610-9005

12. <u>The Compliance Connection</u> – selected issues

The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees DECEMBER 1996

INSIDE THIS ISSUE:

AARMR Teaming With RESPA

Regulatory Alert

Payoff Statements

Report Due Date Changed

License Update

Distribution Request

Often Asked Questions

Mailing Address:
1300 East Main Street
P. O. Box 640
Richmond, VA 23218

AARMR Teaming with HUD on RESPA

Representatives of the American Association of Residential Mortgage Regulators (AARMR) met with officials of the U.S. Department of Housing and Urban Development's RESPA Enforcement Division on September 24, 1996 to discuss a joint effort to improve RESPA enforcement and compliance. In attendance for AARMR were members of its Board of Directors or their representatives. In attendance for HUD were Rebecca Holtz, Director of Interstate Land Sales/RESPA Division and Ivy Jackson, Senior Compliance Specialist, RESPA Enforcement.

As a result of the meeting, state mortgage banking regulators and HUD agreed to begin developing a written "memorandum of understanding" regarding how RESPA complaints and violations will be referred and handled between the states and HUD. Although HUD is the primary regulator in RESPA matters, budgetary concerns and lack of staff have hindered enforcement efforts. It was noted that in many cases, given specific state laws, state regulators may be in a better position to handle and enforce RESPA matters.

State regulators, through AARMR, pledged support to HUD to improve enforcement and compliance with RESPA. Specifically, state regulators noted their intention to 1) document RESPA violations when found during required state examinations and /or investigations and 2) forward that information to HUD for verification and enforcement. Since many state mortgage laws now require compliance with federal laws and regulations, state regulatory departments intend to penalize RESPA violators to the fullest extent of state law. HUD and AARMR agreed to hold additional meetings to develop their memorandum of understanding and oversee their collaboration on RESPA enforcement.

Regulatory Alert: Unlicensed Mortgage Company

The Bureau has discovered that some persons or organizations are doing business as First Mortgage Corporation, and claims to hold Virginia Mortgage License MB - 790. This license, however, was issued to Financial Security Mortgage Corporation, 230 N. Washington Street, Suite 400, Rockville, Maryland 20850, but was revoked on May 31, 1996 for failure to file the required annual report with the Bureau.

Licensees who do business with an unlicensed entity may be considered an accessory to the commission of a felony and are subject to regulatory action as outlined in Administrative Rulings 1603 and 1605. Please report any information about the activities of this company to the Bureau. If you have any questions, please call.

Documents in possession of the Bureau show addresses for First Mortgage Corporation as follows:

- 2102 -C Gallows Road, Vienna, Virginia 22182 (703-821-6663)
- 7202 Arlington Boulevard, Suite 301, Falls Church, Virginia 22042 (703-560-7350)
- 4160 S. Four Mile Run Drive, Suite 100, Arlington, Virginia 22206 (703-820-4405)
- Old Clifton, Clifton, Virginia 20124 (703-968-0112)
- 416 Hungerford Drive, Rockville, Maryland 20850 (410-738-7905)

Property Owner Entitled to Written Statement of Payoff

Virginia Code Section 6.1-330.82 requires that a written statement of the payoff amount be delivered to the property owner 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, charges for “rush” or “faxing” deliveries of payoff information are not allowed and will be cited as overcharges. The holder of the obligation cannot charge the borrower for the mode of transportation of payoff information.

Report Due Date Changed:

The July 1, 1996 amendment to Section 6.1-418 of the Mortgage Lender and Broker Act changed the due date for filing mortgage lender and/or broker annual reports from March 25 to March 1. Annual report forms will be mailed out to all mortgage licensees by the end of December. Keep an eye out for it, and make sure reports are completed and returned to the Bureau by March 1, 1997. Based on the information reported, annual assessment bills, which cover the cost of examination, supervision and regulation, will be sent to all licensees. Fees will be assessed on or before April 25, 1997 and must be paid on or before May 25, 1997. Penalties are imposed against companies who do not file the annual report and/or do not pay the assessment fee by the due dates prescribed by law.

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 September 1, 1996. We hope this will be helpful in keeping track of companies with whom you do business. Please remember that these lists are accurate as of December 1, 1996, so call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission. **NOTE**: Doing business with an unlicensed mortgage company is a violation of Administrative Rulings 1603 and 1605 which can result in regulatory action.

MORTGAGE LICENSES SURRENDERED SINCE SEPTEMBER 1, 1996

MB - 691 BUDGET MORTGAGE, INCORPORATED -- 9/4/96

MB - 185 DANIEL C. KREPINEVICH -- 9/18/96

MLB - 224 THE CRESCENT MORTGAGE CORPORATION - 9/20/96

MB - 838 MORCAP, INC. -- 9/23/96

MB - 724 COUNTYWIDE MORTGAGE COMPANY, INC. -- 10/4/96

MLB - 259 COLONIAL MORTGAGE CORPORATION -- SURRENDERED LENDER AUTHORITY 10/15/96 -- **STILL LICENSED AS A BROKER (MB - 1033)**

MLB - 236 PRIVATE LABEL MORTGAGE SERVICES CORP. -- 10/23/96

ML - 123 NATIONAL CREDIT REPORTS AND APPRAISAL SERVICES, INC. D/B/A MORTGAGE FINANCIAL SERVICES --10/31/96

MB - 663 SUN MORTGAGE CORPORATION -- 11/4/96

MLB - 280 MORTGAGE LENDING SERVICES, INC. -- SURRENDERED LENDER AUTHORITY 11/22/96 -- **STILL LICENSED AS A BROKER (MB - 1046)**

ML - 221 SHELTER MORTGAGE COMPANY PARTNERSHIP NO. 16 -- 11/25/96

ML - 220 SHELTER MORTGAGE COMPANY PARTNERSHIP NO. 21 -- 11/25/96

MORTGAGE APPLICATIONS DENIED SINCE SEPTEMBER 1, 1996

MB - 920 H C FINANCIAL INC. D/B/A PREMIUM HOME FINANCING -- 9/6/96

MB - 1016 DEBORAH KAY FRYE D/B/A OLD TOWN MORTGAGE GROUP -- 11/1/96

MLB - 424 BELGRAVIA FINANCIAL SERVICES, LLC-- 11/4/96

MORTGAGE LICENSE REVOCATIONS SINCE SEPTEMBER 1, 1996

NONE

PENALTIES PAID BY MORTGAGE LICENSEES SINCE SEPTEMBER 1, 1996

MLB - 300 K. HOVNANIAN MORTGAGE, INC. - 9/18/96 - PAID $250 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO RELOCATION

MLB - 237 OAKWOOD ACCEPTANCE CORPORATION D/B/A NATIONWIDE MORTGAGE COMPANY - 10/24/96 - PAID $250 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO RELOCATION

ML - 105 MORTGAGE ACCESS CORPORATION - 10/25/96 - PAID $500 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO OPENING ADDITIONAL OFFICES

ML - 209 BLOCK MORTGAGE COMPANY, L.L.C. - 11/22/96 - PAID $300 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO RELOCATION

ML - 183 MEGO MORTGAGE CORPORATION - 11/22/96 - PAID $250 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO RELOCATION

CORRECTION: The penalty reported levied against Coastal Mortgage Corporation in the September 1996 newsletter should have read MB - 493 COASTAL MORTGAGE CORPORATION OF MARYLAND - 6/11/96 - PAID $400 PENALTY FOR FAILURE TO FILE ANNUAL REPORT IN A TIMELY MANNER. Coastal Mortgage Corporation (MB -

675) was not penalized for late filing of their annual report. We apologize for the error.

PLEASE DISTRIBUTE!

We receive numerous phone calls from branch personnel with questions regarding changes in the laws, regulations and/or items clarified in issues of this newsletter. We often refer callers to sections of the law, regulations or the newsletter but are told that they do not have a copy. Mortgage licensees should be aware that mailings from the Bureau are only sent to the main office. Branches are not included in the Bureau's mailing list and do not receive mailings from the Bureau. It is the responsibility of main office personnel to distribute this information to all affected branches and employees. Additional copies of the law books may be obtained by contacting the Michie Publishing Company at 1-800-542-0957. The 1996 Edition of the Laws of Virginia Related to Non-Depository Financial Institutions is also available on disk from the publisher. Copies of Virginia Regulations, Administrative Rulings and The Compliance Connection may be copied or reprinted for distribution to others. We do ask that information be copied or reprinted in their entirety, to alleviate the potential for items to be taken out of context. PLEASE MAKE SURE ALL PERSONNEL ARE PROVIDED THE OPPORTUNITY TO STAY CURRENT WITH ALL REGULATORY ISSUES SINCE FAILURE TO DO SO COULD RESULT IN VIOLATIONS AND THE POSSIBILITY OF REGULATORY ACTION.

OFTEN ASKED QUESTIONS:

? How are points calculated on open end lines of credit???

> When an open-end line of credit secured by a subordinate mortgage lien is originated by mortgage lenders other than those enumerated in Section 6.1-330.73, points may only be charged on the amount of the initial advance, **NOT** on the full credit line amount. As additional advances are made, points may be charged on the amount of "new money" advanced. (Reference VA Code Section 6.1-330.71). The basis for this position is that the credit line may never be fully utilized and points are only allowed on the principal amount of the loan.

? What is the licensee's responsibility when an applicant requests their loan file to be transferred to another company???

> Virginia law does not address this issue, therefore, it is up to management to set the procedures for transferring loans to other brokers/lenders. Virginia law and Federal Regulation do require that a copy of the appraisal (if paid for by the applicant) be given to the applicant, if requested. (Reference Federal Regulation B 202.5a and VA Code Section 6.1-2.9).
>
> PLEASE NOTE: Brokers are not allowed to collect any fees (other than credit report and appraisal fees) unless a written commitment to make a mortgage loan is given to the applicant by the lender. Reference VA Code Section 6.1-422B(1)).

? When is the new rating system for examinations going to be implemented???

> No implementation date has been set. Preliminary drafts of the rating system format are being developed and reviewed by Bureau staff.

? What is the maximum number of points that may be charged on a subordinate mortgage? Are there any exemptions? Can a flood certification fee be charged?

> 5 POINTS!!! These points may be divided between the broker and lender without restriction as of July 1, 1996 (Reference VA Code Section 6.1-330.71D(2)). The limitation on points and fees stated in Section 6.1-330.71 & 72 **does not** apply in instances where the lender is a bank, savings institution, industrial loan association, credit union, or to a seller in a real estate sales transaction who takes back a second mortgage. Private investors **are not exempt** from compliance with Sections 6.1-330.71 & 72 including the 5% maximum and the limitation on certain additional charges.
>
> In addition to the interest rate and points charged, only the fees listed in VA Code Section 6.1-330.72 may be charged in connection with a subordinate mortgage loan: actual cost of credit report, title examination and insurance, mortgage guaranty insurance, recording fees, survey fees, attorney fees and appraisal fees. The law states, "No other charges of any kind shall be imposed on or be payable by the borrower either to the lender or any other party in connection with such loan..." Flood certification fees cannot be charged to the borrower on subordinate loans.

Legislative Update:

The final rule implementing the Truth-in-Lending Act Amendments of 1995 became effective 10/21/96. Under the new rule, **mortgage broker fees are finance charges** even if the creditor does not require the use of a mortgage broker and does not retain any part of the charge. This includes fees paid by the consumer to the broker or to the lender for delivery to the broker (i.e. yield spread premiums). Furthermore, since broker fees are finance charges, they must be included in the calculation of the APR. Please review the amendments for this and other pertinent changes.

Scheduled Commission Holidays:

> **December 24 - 25 Christmas**
>
> **January 1 New Year's Day**
>
> **January 20 Lee Jackson King Day**
>
> **February 17 President's Day**

Important Commission Telephone Numbers:

Consumer Finance and Mortgage Section (examinations) (804) 371-9701

Corporate Structure and Research Section (licensing) (804) 371-9690

Consumer Complaints (804) 371-9705

Bureau of Financial Institutions FAX NUMBER (804) 371-9416

Bank and Thrift Supervision Section (804) 371-9704

SCC Office of the Clerk (corporate information) (804) 371-9733

Bureau of Insurance (804) 371-9741

Bureau of Financial Institutions
State Corporation Commission
P.O. Box 640
Richmond, Virginia 23218-0640

For Additional information, contact kschrad@scc.virginia.gov

Last Updated: October 03, 1997
State Corporation Commission
webmaster.scc@state.va.us

The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees **APRIL 1998**

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Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at the above address or via e-mail at: nwalker.scc@state.va.us

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 licensed Virginia mortgage, consumer finance and industrial loan companies, non-profit debt counseling agencies and other interested parties. We encourage you to read each newsletter and distribute the information to all staff members. Comments and suggestions are appreciated!

Calculating Points/Broker Fees on 2nds:

Section 6.1-330.71 of the Code of Virginia limits the amount of loan fee (points) that some lenders may charge a borrower on a subordinate mortgage loan to 5% of the principal amount of the loan. Section 6.1-330.71 limits the total of points plus borrower-paid mortgage broker fees to 5% of the principal amount of the loan. On April 6, 1990, the Commissioner of Financial Institutions issued Administrative Ruling 0702 (reprinted in our September 1997 issue of The Compliance Connection), which states, among other things, that points charged to borrowers under these statutes may not exceed 5% of a loan amount which does not include points. Questions have arisen regarding the Bureau's interpretation of these statutory limitations and the meaning, in this context, of the term "principal amount".

It is the Bureau's position that "principal amount", for the purpose of calculating the maximum permitted amount of points and broker fees, may not be the total "loan amount" on which interest is charged. If these types of charges are "financed", they may be included in the "loan amount" upon which interest is calculated; however, the maximum total for both points and broker fees may not exceed 5% of a principal amount from which these charges are excluded.

The intent of these statues is to prohibit more than 5% of the principal amount of the loan being charged for total broker fees and points. This interpretation applies whether or not these charges are financed. It makes no difference whether these fees are paid by the borrower with a check at closing, are deducted from the loan proceeds or are deducted from installment payments made after the loan closes.

Y2K -- Are you ready for the new millennium?

If you haven't started thinking about it, you and your company may be in trouble when the clock strikes midnight on December 31, 1999. Ensuring that all systems are Year 2000 compliant should be a top priority.

Most computer systems and programs are not currently designed to handle the year 2000 for a variety of reasons. The main problem is that a majority of the systems in use today have a two digit field for the year. When the year 2000 arrives, the date will be reflected as "00"; but many systems will mistake that for the year "1900". This will lead to numerous problems when calculations requiring the use of dates are performed. For example, calculating interest, determining a person's age and determining amortization schedules may be miscalculated. Errors caused by these miscalculations may also expose companies and data centers to financial liability and litigation, and risk damage to customer confidence. If computer systems are not made Y2K compliant, systems and programs may fail.

The year 2000 problem is not limited to one type of software or hardware. Machines and programs affected include mainframes, personal computers, networks and other items such as elevators, infrastructures and telephone systems.

All levels of management must understand the implications of this problem; specifically the fact that all computer systems will be affected. The cost of a solution will be significant and because the deadline is not flexible and solutions may take years, **management cannot delay action.**

The Bureau wants all licensees to assess their systems and take the steps necessary to make sure they are in compliance. Examiners will be inquiring into licensees' plans to ensure Y2K compliance during the examination process and questions regarding this issue will be added to the examination report.

SCC's Website" "www.state.va.us/scc"

...check it out!

2nd Mortgage Fees (continued from page 1):

Example A: A borrower needs a $20,000 second mortgage loan for home improvements. The total of the points and broker fee to be charged will be 5% and will be financed in addition to the $20,000 needed by the borrower.

The lender/broker calculates the maximum amount that can be charged for broker's fee and points based on the amount the borrower wants to borrow, which is $20,000.

$20,000 (principal) x 5% = $1,000 (maximum charge for points/fee)

$20,000 + $1,000 = $21,000 loan amount (continued on next page)

CONTINUED FROM PAGE 2

Example B: A borrower applies for a $20,000 second mortgage loan and wants to finance the broker's fee of 2% and points of 3%. The broker's fee of 2% of the $20,000 principal amount is $400. The lender may charge points of up to 3% of $20,000 ($600). The lender may not charge points equal to 3% of $20,400 ($20,000 principal plus $400 broker's fee) because that would result in points of $612, which is an overcharge of $12.

Example C: A borrower only qualifies for a $20,000 subordinate mortgage loan. The points/broker fee will be financed and will be included in the $20,000 loan amount. The lender/broker will charge the maximum 5% in points/broker fee and the borrower will receive net proceeds of less than $20,000.. In this example, if the lender/broker charges 5% on $20,000, an overcharge will result.

The lender/broker must determine the amount of principal and then calculate the points/broker fee on this amount. In this example, the lender should determine the amount of money the borrower will receive or have disbursed on his behalf (exclusive of points/broker fee) and base the 5% on that amount. For example, if the principal amount is $19,000, 5% of this amount would result in a maximum charge for points/broker fee of $950. If the lender/broker charged $1,000, this would result in a $50 overcharge.

Acquisition Reminders:

Due to the number of recent mergers and acquisitions in the mortgage industry, we thought it would be helpful to review the requirements for acquisition of a licensed mortgage broker and/or lender, as stated in Section 6.1-416.1 of the Virginia Code:

⇒ Commission approval is required **prior** to acquiring directly or indirectly 25% or more of a mortgage licensee.

⇒ Acquisition application must be filed in duplicate and must include the $250 fee.

⇒ Notify the Bureau, in writing, within 10 days after the acquisition is effective

⇒ Once a person owns 25% or more of a licensee, any subsequent increases in ownership do not require Commission approval, however, written notice is required within 30 days.

⇒ Exceptions to the application requirements for an acquisition:

1. Acquisition by licensee or person exempt from the Mortgage Lender and Broker Act.
2. Acquisition by person(s) affiliated through common ownership with the licensee.
3. Acquisition through inheritance.

NOTE: Person(s) acquiring ownership interest of a licensee in any such transaction must send a written notice to the Bureau within 30 days of the transfer.

Please review Virginia Code §6.1-416.1 and contact the Corporate Research and Structure Section at (804) 371-9690 if you have any questions.

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 December 1, 1997**. We hope this will be helpful in keeping track of companies with whom you do business. Please remember **these lists are accurate as of March 1, 1998**, so call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission. **NOTE: Doing business with an unlicensed mortgage company is a violation of Administrative Rulings 1603 and 1605, which can result in regulatory action.**

MORTGAGE LICENSES SURRENDERED SINCE DECEMBER 1, 1997

MB - 701 GERALD RANDALL WHITE - 12/2/97

MB - 942 DANIEL P. MATTHEWS AND ROBIN L. MATTHEWS T/A PALY FINANCIAL SERVICES - 12/11/97

MB - 453 FIRST FINANCIAL FUNDING OF WASHINGTON, INC. - (USED IN VIRGINIA BY FIRST FINANCIAL FUNDING, INC.) - 12/18/97

MLB - 330 DYNAMICS FINANCIAL, INC. - 12/16/97

MB - 1062 KAYID SHAWISH D/B/A REAL ESTATE MORTGAGE GROUP - 12/22/97

ML - 193 REVERSE MORTGAGE OF VIRGINIA, L.C. - 12/23/97

MB - 773 RAMSAY MORTGAGE COMPANY OF NORTH CAROLINA, INC. T/A OLD TOWN FUNDING CORP. - 12/29/97

MB - 958 GUARDHILL FINANCIAL CORP. - 12/31/97

MB - 614 DELTA MORTGAGE CORPORATION - 2/6/98

MB - 79 OLD DOMINION ASSOCIATES, INC. - 1/13/98

MB - 875 COMMUNITY MORTGAGE CORPORATION - 2/06/98

MB - 734 MORTGAGE INVESTORS, INC. - 2/13/98

MLB - 274 CENTRAL MONEY MORTGAGE CO., INC. - 2/19/98

MB - 767 DESIGN MORTGAGE SERVICES, INC. - 2/25/98

MORTGAGE APPLICATIONS DENIED SINCE DECEMBER 1, 1997

MB - 1103 CAPITAL LENDING SERVICES, INC. - 12/05/97

MLB - 470 JRMK CO. INC. D/B/A ALTERNATIVE FINANCIAL - 12/05/97

MORTGAGE LICENSE REVOCATIONS SINCE DECEMBER 1, 1997

NONE

PENALTIES PAID BY MORTGAGE LICENSEES SINCE DECEMBER 1, 1997

MLB - 290 FAIRFAX MORTGAGE INVESTMENTS, INC. - 2/23/98 - PAID $10,000 FOR VARIOUS VIOLATIONS OF THE MORTGAGE LENDER AND BROKER ACT

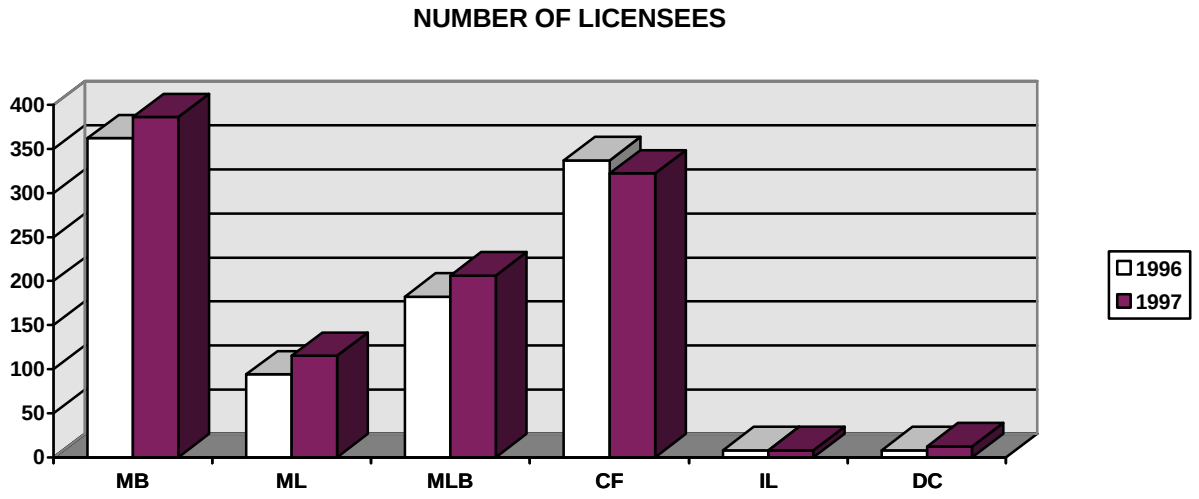
(continued on next page)

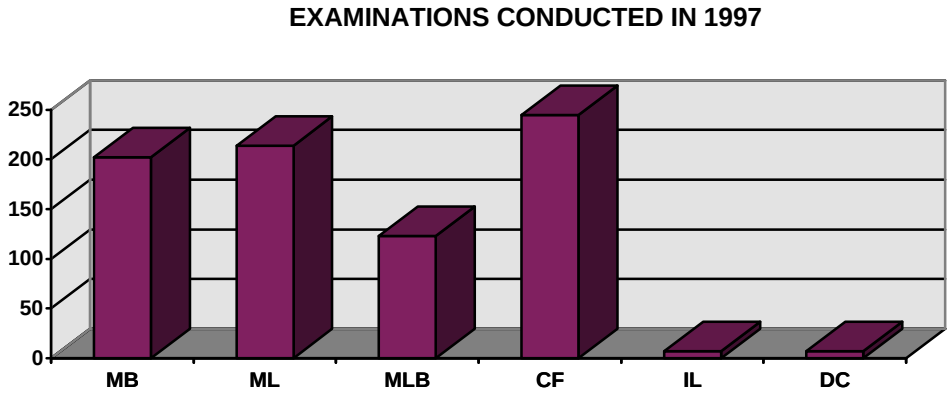
PENALTIES PAID (continued from page 4)

MLB - 277 CITY FEDERAL FUNDING AND MORTGAGE CORP. -1/23/98 - PAID $2,500 FOR VARIOUS VIOLATIONS OF THE MORTGAGE LENDER AND BROKER ACT

Year End Information:

The following graphs show the increase (or decrease) in the number of licensees regulated by the Consumer Finance and Mortgage Section between 1996 and 1997 and the number of examinations conducted during 1997 for each type of license. The license abbreviations are: MB - mortgage broker, ML - mortgage lender, MLB - mortgage lender and broker, CF - consumer finance, IL - industrial loan association, and DC - non-profit debt counseling agency.





MB -- 202
ML -- 214 *
MLB -- 123
CF -- 245
IL -- 7
DC -- 7
TOTAL : 798 EXAMS

*this number includes VA consumer finance offices that have a ML license

Important Commission Telephone Numbers:

Consumer Finance and Mortgage Section (examinations).....(804) 371-9701

Corporate Structure and Research Section (licensing).....(804) 371-9690

Consumer Complaints.....(804) 371-9705

Bureau of Financial Institutions FAX NUMBER.....(804) 371-9416

Bank and Thrift Supervision Section.....(804) 371-9704

SCC Office of the Clerk (corporate information).....(804) 371-9733

Bureau of Insurance.....(804) 371-9741

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

IMPORTANT REGULATORY INFORMATION ENCLOSED!!!

The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees **APRIL 1999**

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Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at the above address or via e-mail at: nwalker@scc.state.va.us

Federal Preemption of Virginia's Prepayment Penalty Laws:

The major topic lately has been the debate over whether the Alternative Mortgage Transaction Parity Act (AMTPA) preempts Virginia laws that place limits on prepayment penalties. The Bureau has received numerous opinion letters from attorneys, along with copies of opinions from the Office of Thrift Supervision's counsel and various states' Attorneys General which opine that the AMTPA preempts Virginia law. The Bureau does not agree with these opinions.

We believe Congress' intention in passing the AMTPA was to authorize, in the case of "housing creditors', the OTS to override state laws which prevented the making of mortgage loans having certain features not common to conventional mortgage loans. We understand the AMTPA gave housing creditors the right to enter into alternative mortgage loan transactions in accordance with OTS regulations only "to the extent that such regulations are authorized by rulemaking authority granted to [the OTS]…under laws other than this section (12 U.S.C. §3803)." The prepayment provisions of Virginia law do not prevent or impede creditors from making adjustable rate loans or other non-conventional mortgage loans (balloon, shared equity loans). They never have.

In our opinion, in §3802(1)(c) of the AMTPA, Congress explicitly restricted the OTS's authority to preemption of only such state laws as related to features "…not common to traditional fixed–rate, fixed–term transactions…" The Virginia statutes applicable to prepayment penalties, §§6.1-330.83 and 6.1-330.85 of the Code of Virginia, govern a longstanding feature of conventional mortgage lending which Congress left to state law under §501(b) (4) of the Depository Institutions Deregulation and Monetary Control Act of 1980(DIDMCA). To express the matter more simply, our view is that federal law governs unconventional features of "alternative mortgage transactions", while state law governs conventional features of such loans, as Congress intended.

(continued on Page 3)

Telemarketers/Processors – Mortgage License is required!

The Bureau has received numerous calls requesting our opinion concerning license requirements for independent telemarketing and loan processing companies. The following article is reprinted from the June 1996 issue of The Compliance Connection:

"Intermediate" Mortgage Activities:

Intermediate mortgage activities can be defined as any activity that may facilitate bringing a potential mortgage borrower together with a mortgage lender for compensation. It can include but is not limited to, such things as mortgage loan "processing" and "telemarketing". Such activities involve "dealing with" or "managing" part of the mortgage loan process. "Loan processing" is an intermediate activity between lender, broker, and borrower which sees to the fulfillment of documentation and underwriting requirements and facilitates the making of mortgage loans. "Telemarketing" is also an intermediate activity when it directs a potential borrower to a mortgage broker or lender. Virginia Code §6.1-409 broadly defines a mortgage broker as any person who directly or indirectly negotiates, places or finds mortgage loans for others. The word negotiate means to "deal with" or "manage". In our view, all three terms, "negotiate, place or find" connote in the mortgage lending context, acting as an intermediary between lender and borrower, or between another broker and borrower, by performing functions that facilitate the making of mortgage loans.

Accordingly, anyone engaged in these types of activities must apply for and obtain a Virginia mortgage broker license and comply with all applicable laws and regulations, including record retention. Each day such person operates a mortgage business without having obtained the required license is a felony, as well as, a separate violation of law subject to a $1,000 fine for each violation, pursuant to Virginia Code§6.1-428. Any person dealing with such an unlicensed entity is an accomplice to the violation, as set forth in Administrative Ruling 1603.

IMPORTANT COMMISSION TELEPHONE NUMBERS

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

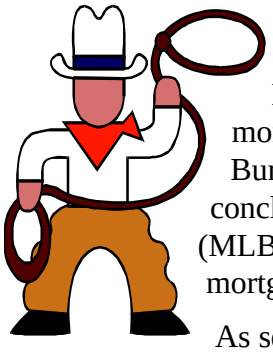
Licensing…..(804) 371-9690

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



Independent Contractor vs. Employee?

Many instances have been seen where licensees have reported compensation for mortgage brokering services (i.e. loan origination) by using Form 1099 vs. W-2. It is the Bureau's position that the reporting of compensation on a 1099 demonstrates conclusively, for the purpose of licensing under the Mortgage Lender and Broker Act (MLBA), that the person compensated is an independent contractor. If that person acts as a mortgage broker, as defined under the MLBA, he must be licensed as such.

As set forth in the MLBA, engaging in business as a mortgage lender or broker without a license is a Class 6 felony. Independent contractors performing mortgage brokering services who are not properly licensed will be notified that they are unlawfully engaged in the mortgage broker business. Such individuals are subject to 1) a Commission imposed fine of up to $1,000 for each day they acted as a mortgage broker as defined by the MLBA and 2) criminal referral to local prosecuting authorities. Licensees compensating such independent contractors will be cited for compensating unlicensed mortgage brokers and are subject to 1) regulatory action (a fine and/or revocation of license), 2) criminal referral to local prosecuting authorities and 3) reporting of such practices to federal and state taxing authorities. Administrative Ruling 1605, issued August 26, 1991, also addresses this issue.

Federal Preemption (continued from Page 1)

In addition, under § 501(b)(4) of DIDMCA, the states had an unlimited period of time within which to "opt out" of federal preemption of "points and other charges" connected with federally-related mortgage loans, and no particular formality was required. Virginia opted out as authorized by Congress by amendment and recodification of its money and interest laws in 1987, including statutes related to points, late charges, prepayment penalties, etc. permitted in connection with mortgage loans. Therefore, it was unnecessary to opt out of federal preemption under AMTPA.

Bureau examiners will continue to cite violations of Virginia statutes relating to prepayment penalties. Licensees found in violation will be required to refund prepayment penalties collected, in excess of the state law limits. In addition, notification of Virginia's limit on prepayment penalties must be provided to current borrowers so they will be aware that any higher penalty cannot be enforced. A copy of the notification must be made a part of the permanent loan file, and investors who have purchased loans providing for penalties in excess of the penalty set forth in the Virginia Code must also be notified.

In addition to possible revocation of license, such violations can be referred to the Attorney General's office for investigation pursuant to Virginia Code §6.1-430.

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. Comments and suggestions are appreciated!

New Mortgage Licensee Orientation:

The next session of the Bureau's orientation program for new mortgage licensees is scheduled for May 21, 1999. Companies licensed during the period of January 1 and March 31, 1999 will soon receive information regarding the orientation. The session begins at 9:30 a.m. 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.

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 January 1, 1999**. We hope this will be helpful in keeping track of companies with whom you do business. **These lists are accurate as of April 1, 1999.** Call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission. **NOTE: Doing business with an unlicensed mortgage company is a violation of Administrative Rulings 1603 and 1605, which can result in regulatory action.**

MORTGAGE LICENSES SURRENDERED SINCE JANUARY 1, 1999

MB – 1148 JOHN THOMAS BYRD D/B/A WHITE HORSE PROPERTIES – 1/5/99

MB – 985 ARTHUR THOMAS LEWIS D/B/A CARDINAL FINANCIAL SERVICES – 1/5/99

ML – 270 AMERICAN MORTGAGE ASSOCIATES, LLP -- 1/8/99

ML – 256 AMERICAN MORTGAGE & FINANCIAL SERVICES, INC. D/B/A AMERICAN LIBERTY MORTGAGE -- 1/12/99

MLB – 411 COMMONPOINT MORTGAGE COMPANY D/B/A COMMONPOINT MORTGAGE – 1/18/99

MLB – 316 PARKWAY MORTGAGE, INC. – 1/27/99

ML – 313 LL FUNDING CORP. D/B/A LIBERTY LENDING CORPORATION – 1/28/99

ML – 310 STD FINANCIAL CORP. D/B/A STANDARD LOANS – 2/1/99

MB – 1039 PINNACLE RESIDENTIAL MORTGAGE CORPORATION – 2/9/99

MB – 519 MIDSTATE FINANCIAL SERVICES, INC. – 2/24/99

MB – 1141 RUSSELL S. WATSON – 2/25/99

MB – 1100 ALLIANCE HOME MORTGAGE CORPORATION – 2/25/99

MB – 1170 LARRY M. GOLDBERG D/B/A FIRST FINANCIAL CONCEPTS – 3/2/99

MLB – 43 BENEFICIAL MORTGAGE CORPORATION – 3/8/99

MB – 1144 VA MORTGAGE SERVICE CORP. – 3/12/99

MB – 1085 AMERICAN FEDERAL MORTGAGE CORPORATION – 3/15/99

ML – 308 UNION FINANCIAL CORPORATION – 3/15/99

ML – 369 MEISTER FINANCIAL GROUP, INC. – 3/16/99

ML – 155 WASHTENAW MORTGAGE COMPANY – 3/16/99

MLB – 204 UNITED SOUTHERN MORTGAGE CORPORATION OF ROANOKE, INC. – 3/17/99

(CONTINUED FROM PREVIOUS PAGE…)

ML – 335 CMG FUNDING CORP. – 3/17/99

ML – 225 ATLAS CAPITAL FUNDING, INC. – 3/17/99

MB – 1136 MARY M. WILMINK – 3/17/99

MLB – 516 ASSOCIATED LENDERS, INC. – 3/23/99

MLB – 347 1ST AMERICAN FINANCIAL SERVICES/INC. – 3/23/99

MLB – 374 BROKERS COMMITMENT CORPORATION T/A HIGHLAND FINANCIAL CORPORATION – 3/23/99

ML – 240 FIRST SECURITY FINANCIAL SERVICES, INC. – 3/24/99

MB – 631 COSMOS MORTGAGE CORPORATION – 3/24/99

MLB – 505 WINDWARD MORTGAGE, LLC – 3/25/99

MLB – 576 CFT FINANCIAL CORP. – 3/29/99

ML – 319 OCEANMARK FINANCIAL CORPORATION – 3/31/99

MLB – 332 HEADLANDS MORTGAGE COMPANY – 3/31/99

MORTGAGE APPLICATIONS DENIED SINCE JANUARY 1, 1999

MB – 1279 VIRGINIA HOME MORTGAGE NETWORK INC. – DENIED 2/11/99

MLB – 571 EMB MORTGAGE CORPORATION – DENIED 2/25/99

ML – 371 JP FUNDING INC. – DENIED 2/25/99

MB – 1311 THOMAS DEUTSCH D/B/A ALTUS MORTGAGE – DENIED 3/18/99

MORTGAGE LICENSE REVOCATIONS SINCE JANUARY 1, 1999

MLB – 383 ADVANTAGE MORTGAGE COMPANY LLC T/A BAY MORTGAGE – REVOKED 3/9/99 FOR FAILURE TO MAINTAIN SURETY BOND

MB – 330 MORTGAGE SOLUTIONS INC. – REVOKED 3/15/99 FOR FAILURE TO MAINTAIN REGISTERED AGENT IN THE COMMONWEALTH AND ITS AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA WAS REVOKED

ML – 329 TREO FUNDING, INC. – REVOKED 3/31/99 FOR FAILURE TO MAINTAIN SURETY BOND

PENALTIES PAID BY MORTGAGE LICENSEES SINCE JANUARY 1, 1999

ML – 223 DITECH FUNDING CORPORATION – 3/30/99 -- PAID $500 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO THE RELOCATION OF AN OFFICE

MLB – 285 HARBOR FINANCIAL MORTGAGE CORP. – 2/11/99 – PAID $27,000 FOR VARIOUS VIOLATIONS OF THE MORTGAGE LENDER AND BROKER ACT

SCC's Website "www.state.va.us/scc"

...check it out!

Opening a New Office? Relocating?

Did you know that approval from the Commission is required **BEFORE** you open a new office or relocate an existing one? Virginia Code §6.1-416 requires licensees to apply for and obtain approval prior to relocating or opening an additional office. In addition, the statute requires licensees to notify (in writing) the Commissioner, within 10 days, of the actual date of the relocation or opening.

Once granted, the initial approval is good for one year. In most cases, openings and relocations occur soon after the approval is granted, but many times the relocation/opening is delayed or canceled altogether. Until a written confirmation from the licensee is received, the Bureau considers branches "authorized/unopened". We point out that consumers regularly call the Bureau to determine if offices/branches are licensed. **If the relocation/opening confirmation has not been sent to the Commissioner, we will inform consumers the office is authorized, but unopened. This could lead to the consumer going elsewhere for a loan.**

Bureau of Financial Institutions

State Corporation Commission

P.O. Box 640

Richmond, Virginia 23218-0640

IMPORTANT REGULATORY INFORMATION ENCLOSED!!!

The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees January 2000

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Mailing Address:

1300 East Main Street

Suite 800

P. O. Box 640

Richmond, VA 23218 - 0640

Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at the above address or via e-mail at: nwalker@scc.state.va.us

HAPPY NEW YEAR!

We survived Y2K! We hope all licensees have a happy and prosperous new year! See related Y2K article on Page 5 of this newsletter.

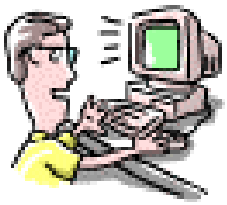
Examination Report Mailing:

Recently, the Bureau has reviewed its procedures and in an effort to reduce costs, changes have been made to the way we send Examination Reports to licensees. Licensees will only receive one copy of the Examination Report. Consumer Finance licensees previously were sent two copies of the Report – one copy to the licensed office and another copy to their home office. Starting January 1, 2000, only one copy will be sent and it will be sent to the licensed consumer finance office examined. It will be up to the licensee to forward a copy to the other departments in their organization. Mortgage licensees typically were only sent one copy, so this change should not affect mortgage licensees.

Recent Complaints:

Once again, we are receiving an increased number of complaints concerning difficulties in receiving payoff information from lenders. The complainants state some lenders are not responding to written payoff requests made by the property owner's designee (i.e.: attorney, or mortgage lender or broker with whom they have filed a loan application) and are claiming the payoff request must come from the property owner. Other complaints revolve around the lender's refusal to accept a faxed written request. It is the Bureau's opinion that a faxed request for loan payoff information is a "written request" within the meaning of Virginia Code §6.1-330.82 with which the note holder must comply.

The above referenced section also requires the holder of the note secured by a deed of trust or mortgage on Virginia property to mail or deliver a written statement of the payoff amount **within 10 days** of the receipt of a written request from the property owner, **or his designee**. Such request for payoff information may be made one time within a 12-month period **without charge**, and a fee **not to exceed $15** may be charged for each additional request within such period.



www.state.va.us/scc

Our website contains alot of helpful information – check it out and let us know what you think!

Prohibition Against Dual Compensation:

Virginia Code §6.1-422B(5) and §6.1-422C prohibits a mortgage broker from receiving compensation for negotiating, placing or finding a mortgage loan where the mortgage broker, or any person affiliated with the mortgage broker has also acted as a real estate broker, agent or salesman in connection with the sale of real estate which secures the loan, unless the mortgage broker was licensed prior to February 25, 1989. If the mortgage broker was licensed prior to this date, the prohibition is eliminated as long as the proper disclosure is given (see "Notice" under VA Code §6.1-422B(5)).

An "affiliated person of a mortgage broker" means any person which is a subsidiary, stockholder, partner, trustee, director, officer or employee of a mortgage broker and any corporation ten percent or more of the capital stock of which is owned by a mortgage broker or by any person which is a subsidiary, stockholder, partner, trustee, director officer or employee of a mortgage broker.

Please note! Only one fictitious name can be used by a licensee and the fictitious name, along with the licensee's legal name, must appear on the license issued by the Commission. Virginia Code §6.1-424 prohibits licensees from using or causing to be published any advertisement which identifies the lender or broker by any name other than the name set forth on the license issued by the Commission.

Mark Your Calendar! Important Upcoming Dates:

February 11, 2000	New Mortgage Licensee Orientation
February 21, 2000	President's Day Holiday
March 1, 2000	Mortgage Annual Report Due
April 1, 2000	Consumer Finance Annual Report Due
April 25, 2000	Bureau's Deadline for mailing mortgage assessment bills
May 1, 2000	Bureau's Deadline for mailing consumer finance assessment bills
May 25, 2000	Mortgage Assessments Due
June 1, 2000	Consumer Finance Assessments Due

Attention New Mortgage Licensees:

February 11, 2000 is the date of the next orientation for new mortgage licensees. Companies who were licensed between October 1st and December 31st 1999 should have received 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.

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 September 30, 1999**. We hope this will be helpful in keeping track of companies with whom you do business. **These lists are accurate as of January 1, 2000.** Call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission. **NOTE: Doing business with an unlicensed mortgage company is a violation of Administrative Rulings 1603 and 1605, which can result in regulatory action.**

MORTGAGE LICENSES SURRENDERED SINCE SEPTEMBER 30, 1999

ML – 249 Capstead, Inc. – 10/5/99

ML – 211 Regional Investment Co. d/b/a RIC Mortgage Co. – 10/6/99

MLB – 415 Carolina Mortgage Brokers, Inc. d/b/a CMB Mortgage – 10/6/99

MLB – 206 United First Mortgage, Inc. d/b/a Northstar Mortgage Group – 10/8/99

MLB – 218 Richmarr Mortgage Corporation d/b/a RMC Mortgage – 10/8/99

ML – 363 Innovative Funding, Inc. – 10/14/99

MLB – 451 Chesapeake Mortgage Services, Inc. – **SURRENDERED LENDER AUTHORITY ONLY 10/20/99 – NOW MB -- 1493**

MLB – 517 Equity Mortgage Co. (IMC), Inc. – 10/21/99

ML – 232 Allied Bancshares Mortgage Group, LLC – 10/25/99

MLB – 513 Long Beach Mortgage Company d/b/a Financing USA – 10/27/99

MLB – 251 Associated Financial Group, Incorporated – 11/3/99

ML – 184 New America Financial Incorporated – 11/10/99

MLB – 285 Harbor Financial Mortgage Corporation – 11/10/99

MB – 859 Phoenix Home Mortgage Corp. – 11/12/99

ML – 297 IMC Mortgage Company – 11/16/99

MLB – 202 Primerica Financial Services Home Mortgage, Inc. – **SURRENDERED LENDER AUTHORITY ONLY -- 11/16/99 –NOW MB-- 1504**

ML – 96 United Companies Lending Corporation – 11/19/99

ML – 192 Realty Mortgage Group, Inc. – 11/22/99

(Continued on next page…)

LICENSES SURRENDERED: continued…

MB – 976 Elder Mortgage, Inc. – 12/1/99

ML – 376 Rock Financial Corporation – 12/8/99

MB – 1104 Fidelity Trust Mortgage Corporation – 12/8/99

MB – 1309 Roanoke Valley Mortgage, Inc. – 12/8/99

MB – 888 Equity One Mortgage & Investment Company – 12/10/99

MLB – 385 Colonial Mortgage Group, LLC – 12/10/99

MB – 749 Granite Mortgage Corporation, Inc. t/a Granite Mortgage Corp. – 12/14/99

MLB – 380 StateStreet Mortgage Corporation of Virginia – 12/17/99

MLB – 543 The Fidelity Group, Inc. d/b/a 1st Republic Funding, A Division of the Fidelity Group – 12/21/99

MB – 977 TelNet Financial Corporation – 12/27/99

MB – 1050 Consumers Mortgage Corporation – 12/27/99

MLB – 600 Lowestrate.com, Inc. – 12/29/99

MLB – 538 Global Mortgage Network t/a Metro Capital Corp. – 12/30/99

MB – 1185 Source One Financial Services, Inc. – 12/31/99

ML – 287 National Home Loan Corporation – 12/31/99

MLB – 497 Investors Mortgage Corporation – 12/31/99

MB – 500 The Mortgage Broker, Inc. – 12/31/99

MB – 532 FirstPlus Financial, Inc. – 12/31/99

MORTGAGE APPLICATIONS DENIED SINCE SEPTEMBER 30, 1999

MB – 1436 Loankey Financial, Inc. – 11/9/99

MLB – 627 First Suburban Corporation – 12/22/99

MORTGAGE LICENSE REVOCATIONS SINCE SEPTEMBER 30, 1999

NONE

PENALTIES PAID BY MORTGAGE LICENSEES SINCE SEPTEMBER 30, 1999

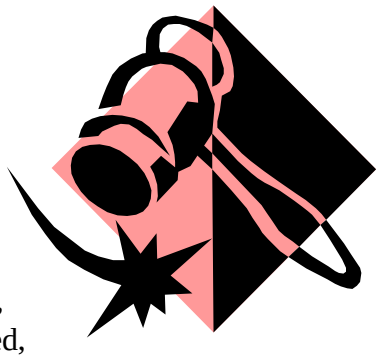
Fidelity Funding Acquisition Corporation – 11/8/99 – Paid $1,000 for failure to obtain Commission approval prior to acquiring the stock of Fidelity Funding Mortgage Corporation (MLB – 436)

Welcome to Virginia!

On October 27, 1999 a new consumer finance licensee was approved to conduct a consumer finance business. USA Finance, Inc. currently has one location, in Danville, Virginia.

Temporary Injunctions Related to Y2K:

As part of the Bureau's preparation for potential Y2K computer problems, we contacted all licensees to confirm Y2K readiness. A tremendous effort was made to contact all licensees for this information. Only a few licensees did not respond. **On December 15, 1999 the Commission entered temporary injunctions against four licensees, enjoining them from receiving or accepting new mortgage loan applications until a Y2K Readiness Form is provided to the Bureau.** The temporary injunctions were issued against the following licensees:



ML – 52 DeGeorge Captial Corporation

MB – 1266 H K Stone Financial Corp.

ML – 298 Great American Home Mortgage Corporation

The Bureau will proceed with revocation of the above licenses. One licensee, **American Mortgage Bankers, Inc. (MB – 559)** also had an injunction issued, but it was vacated because the licensee provided the required form by December 31, 1999.

Lifetime Achievement Award Recipient: Winnie Owen

During the American Financial Services Association's (AFSA) Annual Convention in Orlando, Florida last October, the 1999 Lifetime Achievement Award was awarded to Winnie Owen, a District Manager for Aristar in Danville.

Mrs. Owen began her career with Public Finance as a Customer Service Representative in the Danville, VA office in August of 1956. She was promoted to Manager in 1973, and in 1982 she became District Manager for City Finance (who purchased Public in 1981). In 1986, Aristar acquired City Finance and Mrs. Owen continued her career serving as District Supervisor of 11 offices in Virginia. This past year, she completed 43 years of loyal, dedicated service.

We congratulate her on this distinguished award!

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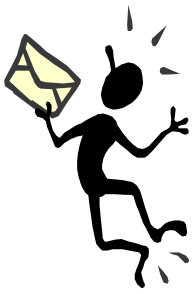

IMPORTANT COMMISSION TELEPHONE NUMBERS

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!!!

The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees **April 2000**

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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: Commissioner Face, MaryLou Kelly and Bob Mednikov for their help with this issue.

Bureau Technology Initiatives:

For those of you who dread digging out the prehistoric typewriter to complete the Officer's Questionnaire during the examination – GOOD NEWS! The Questionnaire is now available on disk, so it can be completed on your computer. This should help licensees complete the Questionnaire more quickly. Licensees will have the option to use whichever questionnaire works best – a "hard copy" or an electronic one.

We have also recently enhanced our web site to include the names of licensed mortgage companies. The licensees are grouped by license type (MB – mortgage broker, ML – mortgage lender, MLB – mortgage lender/broker) and are listed alphabetically by company name. The list also provides the license number, chief operating officer, and authorized locations. For companies who use trade names, the licensee's d/b/a name is included following its primary name. The information is accurate as of the date listed on the Report and is updated weekly. The list does not include companies who are exempt from the licensing requirement.

If the licensee's full name or license number is not known, the "find" mechanism (look for the binocular icon) of the Adobe reader can be used to find the licensee by entering any known search string of its name, locations, chief executive or license number. Be sure you are at the top of the document before executing the search.

We hope you take advantage of these new technologies and let us know if you have any concerns or suggestions. Our goal is to provide the public and our licensees easy access to information about our licensees so that everyone can be better informed.

A Reminder:

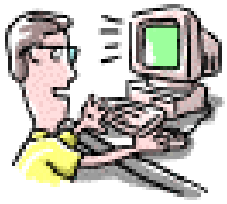
Only one copy of the completed examination report will be sent to a licensee. We notified licensees in the last issue of this newsletter that, after a review of Bureau procedures, it was decided that the courtesy copy of the report previously sent to Consumer Finance corporate headquarters (or compliance departments) would no longer be sent. Now only one copy of the report will be sent; it will go to the consumer finance office examined. Please make a note of this and inform necessary personnel of this change.

Changing from Sole Proprietorship to Corporation:

One of the more frequent questions we get from mortgage licensees is "What are we required to do if we want to change from a sole proprietorship to a corporation?" According to Section 6.1-416 of the Code of Virginia, a license issued pursuant to the Mortgage Lender and Broker Act is not transferable or assignable, by operation of law or otherwise. Thus the proprietorship may not simply hand over its license to the corporation. The corporation is a separate legal entity from the sole proprietorship and the corporation may not legally conduct business pursuant to the Act unless it has first obtained the required license. Application forms are available on our web site or by calling the Bureau's Corporate Research and Structure Section at (804) 371-9690.

www.state.va.us/scc

Our website contains a lot of helpful information – check it out and let us know what you think!



2000 Virginia Legislation: Effective July 1, 2000

This year the Bureau of Financial Institutions requested two bills, one clarifying the unlawful use of the name *bank, trust company*, etc. (Code §6.1-112); and one deleting the statutory requirement that the Bureau make and publish annually an analysis and recapitulation of the reports of consumer finance/small loan licensees (Code §6.1-301). The State Corporation Commission put forth twenty legislation proposals in total, mostly recommending technical changes.

The Bureau reviewed and/or commented on numerous bills and resolutions affecting financial institutions; bills included payday lending, non-profit debt counseling agencies, credit union fiduciary accounts, privacy, Uniform Commercial Code, credit cards, small business loans, insurance, etc. Virtually any legislation having any effect on financial institutions was perused by Commission and Bureau staff. The Bureau is always mindful, though, that public policy-making is the province of the General Assembly. Nevertheless, staff is always ready and prepared to offer help and comments when asked.

The 2000 legislative changes, the "stop-gap", will be available on the Bureau's portion of the web site by May 17, 2000. If you are unable to obtain the changes from the web site, call our office and we will send you a copy. New law books will be printed this summer and will be mailed to licensees sometime in August or September. The changes which affect non-depository licensees can be found in the following sections:

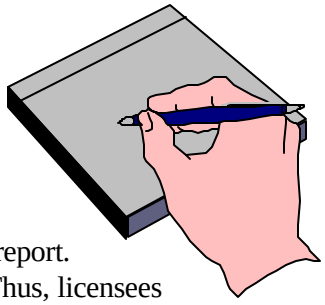
TITLE 6.1 BANKING AND FINANCE

Chapter 1.3	**Consumer Real Estate Settlement Protection Act**	
	§ 6.1-2.21	Licensing requirements, standards and financial responsibility.
	§ 6.1-2.23:1	Falsifying settlement statements prohibited.
	§ 6.1-2.27	Penalties and liabilities.
Chapter 2	**Banking Act**	
Article 11	Offenses	(continued on next page)

2000 Legislation: (continued from previous page)

	§6.1-112	Unlawful use of terms indicating that business is bank, trust company, etc; penalty.
Chapter 6	**Consumer Finance Act**	
Article 2	Compliance with Chapter; Licensee Required; Name	
	§ 6.1-250	Certain persons ineligible as licensees; exemptions.
Article 4	Place of Business and Residence of Borrower	
	§ 6.1-267	Other business in same office; fee.
	§ 6.1-269.1	Changing place of business.
Article 7	Administration and Supervision by Commission	
	§ 6.1-301	Annual Reports.
Chapter 10.1	**Nonprofit Debt Counseling Agencies**	
	§ 6.1-363.1	Operation and licensure.
TITLE 55 PROPERTY AND CONVEYANCES		
Chapter 4	**Form and Effect of Deeds and Convenants: Liens**	
	§ 55.58.2	Credit line deed of trust defined; relative priority of credit line deed of trust and other instruments of judgment.
	§ 55-58.3	Priority of refinance mortgage over subordinate mortgage.
	§ 55-66.3	Release of deed of trust or other lien

Examination Tips:



Licensees that have been cited for overcharge violations should keep a copy of the canceled reimbursement checks, in order to prove that the required corrective action was taken. Sometimes a licensee will be requested to send these copies to the Bureau with their response, but other times the Examiners will check that the appropriate documentation is maintained. We suggest canceled checks be maintained with the corresponding examination report. One of the first things Examiners ask for when beginning the exam is to see the last report. Thus, licensees should maintain a copy of the previous examination report for future reference. Providing the required documentation helps ensure a smooth examination process.

Attention New Mortgage Licensees:

May 19, 2000 is the date of the next orientation for new mortgage licensees. Companies who were licensed between January 1st and March 31st should have received 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: (see related story — "Technology Initiatives" on Page 1)

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 December 31, 1999**. We hope the list is helpful in keeping track of companies with which you do business. **These lists are accurate as of April 15, 2000.** Call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission.

MORTGAGE LICENSES SURRENDERED SINCE DECEMBER 31, 1999

MB – 1151 The American Dream Corporation d/b/a Mortgage Funding Services, Inc. – 1/1/00

MLB – 333 First Atlantic Mortgage Corporation – **SURRENDERED LENDER AUTHORITY ONLY – 1/5/00 – NOW MB – 1526**

ML – 7 AVCO Mortgage and Acceptance, Inc. – 1/6/00

MB – 580 Cheryl L. Alter t/a Money Market Mortgage – 1/10/00

ML – 174 Associates Financial Services Company of Delaware, Inc. – 1/10/00

MLB – 555 Mountain Pacific Mortgage Company d/b/a LFC Mortgage – 1/10/00

MB – 1248 A.R.T. Financial Services, Inc. d/b/a Franklin Mortgage – 1/11/00

MB – 1032 Central Government Mortgage, Inc. – 1/19/00

MB – 1214 Linda Caruso t/a Guardian Mortgage – 1/20/00

MB – 1352 Express Funding, Inc. – 1/27/00

MLB – 342 Mortgage USA, Inc. – 1/27/00

MB – 632 Paul Silverstein Associates Co t/a Monumental Mortgage Company – 1/31/00

MLB – 381 Wilshire Credit Corporation – 2/1/00

MB – 960 E.M. Willis Corporation – 2/3/00

MB – 908 The Loan Company – 2/4/00

MB – 944 Paramount Mortgage Corporation – 2/11/00

MLB – 39 Mortgage Investment Corporation – 2/14/00

MB – 538 Atlantic Mortgage Funding, Inc. – 2/20/00

ML – 279 Great Eastern Financial Services, Inc. – 2/29/00

ML – 350 First Pacific Financial, Inc. – 2/28/00

MLB – 146 Woodmont Mortgage Corp. – **SURRENDERED LENDER AUTHORITY ONLY – 3/2/00 – NOW MB – 1557**

MB – 846 Security Trust Mortgage Corporation – 3/12/00

MB – 343 Homebuyers Equity Corporation – 3/14/00

ML – 356 Capstone Mortgage Corporation d/b/a Lender Direct – 3/16/00

MB – 1270 Magellan Home Loans, Ltd. – 3/16/00

MB – 1383 Global Mortgage Corporation -- 3/21/00

MLB – 412 Fidelity First Mortgage, LLC d/b/a Valley Pine Mortgage – 3/21/00

MB – 1153 Bethesda Properties Corporation d/b/a Pilot Mortgage Company – 3/24/00

MLB – 456 Parmann Mortgage Associates, L.P. – 3/29/00

MB – 1231 Home Mortgage Direct, Inc. – 3/29/00

ML – 163 Treasure Coast Mortgage Corporation – 3/30/00

MB – 1208 Gulfstream Financial Services of Maryland, Incorporated – 3/30/00

ML – 6 Blazer Mortgage Services, Inc. – 4/1/00

MB – 706 Peoples Home Equity Corp. – 4/1/00

MB – 1283 Chespakeake Mortgage Financial Corporation – 4/10/00 – **SURRENDERED WITH PROCEEDING TO REVOKE PENDING**

MB –1167 Atlantic Coast Financial Services, Inc. – 4/13/00

MB – 956 Castleton Capital Corp. – 4/13/00

ML – 52 DeGeorge Capital Corp. – 4/14/00

ML – 400 Havenwood Financial, Inc. – 4/14/00

ML – 183 Altiva Financial Corporation – 4/14/00

MORTGAGE APPLICATIONS DENIED SINCE DECEMBER 31, 1999

MB – 1433 W. MITCHELL HINES D/B/A HINES FINANCIAL GROUP – 1/14/00

VAGOLA BRYANT WOOTEN -- TO ACQUIRE 25% OR MORE OF THE OWNERSHIP OF PLATINUM MORTGAGE, INC. (MB – 1310) – 2/9/00

MB – 1498 FIRST HOUSEHOLD FINANCE CORPORATION – 3/7/00

MB – 1503 D.J. HARDA CORP. D/B/A CONTINENTAL MORTGAGE CO. – 3/7/00

DATES TO REMEMBER!

Consumer Finance and Mortgage licensees should have received their annual assessment bills from the Bureau. Mortgage assessments are due on or before Thursday, May 25, 2000 and consumer finance assessments are due by Thursday, June 1, 2000.

Failure to pay any fee or assessment imposed by the Mortgage Lender and Broker or the Consumer Finance Act may result in suspension or revocation of the license issued by the Commission, pursuant to the Virginia Code §§ 6.1-425 and 6.1-260.

NOTE: The $6.60 per loan fee charged to mortgage licensees as part of their annual assessment **CANNOT** be passed on to the borrower.

IMPORTANT COMMISSION TELEPHONE NUMBERS

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

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

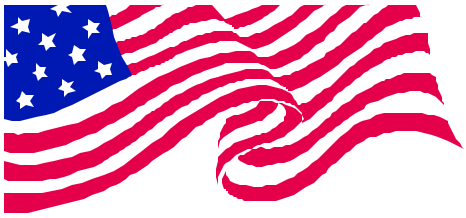
Consumer Complaints…..(804) 371-9705

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

The Commission will be closed on Monday, May 29, 2000 in observance of Memorial Day and on Tuesday, July 4, 2000 for Independence Day.



Bureau of Financial Institutions

State Corporation Commission

P.O. Box 640

Richmond, Virginia 23218-0640

IMPORTANT REGULATORY INFORMATION ENCLOSED!!!

The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees **Summer 2000**

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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@scc.state.va.us.

Welcome to the world - Carlisle M. ("CJ") Williams, IV.

Special thanks to Nick Kyrus and Jon Orne for their contributions to this issue.

The Most Common Broker Mistake:

The Bureau's position concerning the collection of broker fees without a signed written agreement was initially included in a February 5, 1993 memorandum, which was sent to all mortgage licensees. This memo was reprinted in the March 1996 and July 1999 issues of this newsletter. Despite this, numerous violations of this nature continue to be cited.

Section 6.1-422B(4) of the Code of Virginia prohibits brokers from receiving compensation from the borrower other than that specified in a written agreement signed by the borrower. As many of you know, the Examiners check the broker's contract for compensation (i.e. broker or financing agreement) executed by the borrower to determine the maximum broker fees that can be collected by the broker. The broker fees are those charged to the borrower by the broker and retained by the broker as compensation. Documented third party fees are not included in the term "broker fees". As stated in the 1993 memo, obtaining the borrower's signature on the agreement or contract for compensation after the violation occurs is NOT acceptable as a corrective measure and results in an overcharge violation on the Report of Examination, which requires reimbursement. Likewise, disclosure of such fees on the good faith estimate does not constitute compliance with §6.1-422B(4) since the good faith estimate disclosure is not an agreement.

(continued on Page 5)

Virginia Participates in Case Against The Cash Store, Inc.

Commissioner Joe Face is participating as co-amicus in the case of Colorado v. The Cash Store, Inc., pending in Colorado. In this case, the State of Colorado is seeking review by its Supreme Court of a case brought under the States' Uniform Consumer Credit Code by the Colorado Attorney General and UCCC Administrator against a local company which purchases income tax refunds from individuals at a steep discount.

The Colorado officials contend that this activity is an unlawful consumer lending business. Commissioner Face, along with government officials and agencies of several other states, are participating in the case in support of this view.

It Pays To Be On The Right Side of the Law:

Mortgage lenders and brokers with a good compliance record receive priority in processing their applications for additional offices and relocations. Although the Code of Virginia allows a maximum of thirty days for processing of these applications, the Bureau of Financial Institutions normally processes applications of licensees with a good compliance record within ten days, depending on the application volume.

An application shall be approved unless the Commission finds that a licensee has not conducted business efficiently, fairly, in the public interest and in accordance with law. The application shall be deemed approved if notice to the contrary has not been mailed to the applicant within thirty days of the date the application is received by the Commission. Delays in the approval process or denials are encountered in cases of disregard of laws and regulations, as reflected in the examination reports; an inordinate number of unresolved consumer complaints; failure to file the annual report for mortgage lenders/brokers (due March 1 annually); failure to pay assessment fees; failure to maintain a good standing status with the Clerk's Office, State Corporation Commission, by filing the required report annually and paying the required fees; relocating or establishing offices without Commission approval; and failure to inform the Bureau of changes in directors and senior officers, as required by §6.1-416 of the Code of Virginia.

Compliance with laws and regulations simplifies and streamlines the regulatory process. It saves time and money, prevents interruption of services to the consumer and benefits everyone.

Any questions you may have concerning the application process should be directed to Deputy Commissioner Nick Kyrus or his staff at (804) 371-9690 (e-mail: nkyrus@scc.state.va.us)

Attention New Mortgage Licensees:

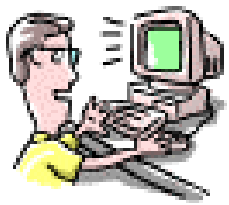
Friday, August 11, 2000 is the date of the next orientation for new mortgage licensees. Companies who were licensed between April 1st and June 30th should have received information about the session. Orientation begins at 9:30 a.m. at our office and concludes around 4:00 p.m. Licensees who were unable 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!

"Other Business" Notice – Consumer Finance Licensees:

Section 6.1-267 of the Virginia Consumer Finance Act was amended (effective July 1, 2000) to eliminate the requirement to apply for authority to conduct an "other business" in a licensed consumer finance office. Licensees are now required to provide the Commission thirty days prior written notice. Upon receipt of the notice the Commission may require additional information relating to the other business, such as how and by whom it will be conducted. The Bureau has developed a "Notice to Conduct Consumer Finance Business and Other Business at Same Location" form (CCB – 4403), which is available on our website: http://www.state.va.us/scc/division/banking/forms/ccb4403.pdf Questions?? Call the Corporate Structure and Research Section at (804) 371-9690.

http://www.state.va.us/scc

Our website contains a lot of helpful information – check it out and let us know what you think!



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 April 15, 2000**. We hope the list is helpful in keeping track of companies with which you do business. **These lists are accurate as of July 15, 2000.** Call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission.

MORTGAGE LICENSES SURRENDERED SINCE APRIL 15, 2000

ML – 218 First Colonial Mortgage of NJ, Inc. – 4/15/00

MB – 795 Joo Dong Kim t/a Dime Mortgage Service – 4/17/00

ML – 367 Marina Mortgage Company, Inc. d/b/a Consumer First Mortgage – 4/20/00

ML – 271 AMRESCO Residential Mortgage Corporation – 4/26/00

MLB – 523 National Lending Center, Inc. – 4/28/00

MB – 1396 Coastal Mortgage and Investments, Inc. – 4/30/00

MB – 1067 The Mortgage Bank., L.C. – 5/1/00

MLB – 257 NF Investments, Inc. – 5/5/00

MLB – 404 Citizens Mortgage Corporation – 5/5/00

MB – 1160 Fidelity Mortgage and Finance Co. – 5/5/00

MB – 1006 Complete Mortgage Corporation – 5/8/00

MB – 521 Maryland Financial Resources, Inc. – 5/8/00

MLB – 208 Washington Suburban Financial Services, Inc. – 5/8/00

MB – 1271 Franklin Financial Mortgage Corporation – 5/10/00

MB – 984 Payne Financial Services, Ltd. – 5/10/00

ML – 248 Equi-Financial, L.P. – 5/15/00

MB – 621 Mortgage Resources Incorporated – 5/22/00

MLB – 580 Residential Mortgage Corp. – **SURRENDERED BROKER AUTHORITY ONLY – NOW ML - 462**

MLB – 623 Pacific Guarantee Mortgage Corporation – 5/25/00

MLB – 610 Prism Mortgage Company – 5/25/00

MLB – 556 Resource Mortgage Banking – **SURRENDERED BROKER AUTHORITY ONLY – NOW ML – 464**

MLB – 281 Beard Development Corporation – 5/30/00

MB – 1304 United Trust Mortgage Services, Inc. – 5/31/00

MB – 1181 Intuit Lender Services, Inc. – 6/1/00

MLB – 632 EEMCO The Mortgage Service Station Inc. d/b/a HomeSense Financial Corp. – 6/5/00

MLB – 269 ProCapital Funding Corp. – 6/6/00

ML – 402 HarvestOne Funding, L.L.C. – 6/15/00

ML – 288 MorEquity, Inc. – 6/16/00

ML – 251 Fairbank Mortgage Corporation – 6/19/00

MB – 1388 Affinity Group Mortgage, Inc. – 6/22/00

MLB – 384 NCS Mortgage Services, L.L.C. – 6/30/00

MB – 1001 Select Mortgage Services, L.L.C. – 6/30/00

ML – 295 Indymac, Mortgage Holdings, Inc. -- 7/1/00

MLB – 651 IndyMac, Inc. d/b/a LoanWorks – 7/1/00

MB – 1022 Res-Comm Mortgage Company, Inc. – 7/11/00

MORTGAGE LICENSE REVOCATIONS SINCE APRIL 15, 2000

THE FOLLOWING LICENSES WERE REVOKED ON MAY 17, 2000 FOR FAILURE TO FILE THE ANNUAL REPORT REQUIRED BY VIRGINIA CODE §6.1-418:

MLB – 445 First Home Acceptance Mortgage Corporation

MB – 895 American Funding Network, Inc.

MB – 78 The Phoenix Financial Corporation of Virginia, Inc.

MB – 504 Centurion Financial, Ltd.

MB – 816 Eastern Residential Mortgage, Inc.

MB – 931 Federal Home Funding Corporation

ML – 298 Great American Home Mortgage Corporation

MB – 1061 Home Funding Mortgage Corporation

MB – 1286 H K Stone Financial Corp.

MB – 1277 Madison Mortgage, Inc.

MLB – 572 Mortgage Funding Network, Inc.

MLB – 438 National Finance Corporation

MLB – 386 National Mortgage Corporation d/b/a NMC Mortgage Corporation

MB – 1293 Overlake Mortgage Company

MB – 1221 Service Center of America, Inc. d/b/a Financial Funding Group

MB – 934 Triangle Funding Corporation

MLB – 504 Vista Capital Funding, Inc.

PENALTIES PAID BY MORTGAGE LICENSEES SINCE APRIL 15, 2000

MB – 1281 1st Continental Mortgage, Inc. – 5/12/00 – Paid $250 for failure to obtain approval prior to the relocation of an office

MLB – 459 University Mortgage, Inc. – 7/6/00 – Paid $5,000 for various violations of the Mortgage Lender and Broker Act

ML – 205 Conseco Finance Servicing, Corp. – 7/6/00 – Paid $500 for failure to obtain approval prior to the relocation of an office

OTHER PENALTIES PAID SINCE APRIL 15, 2000

Specialty Finance Partners – 6/30/00 paid $1,000 for failure to obtain commission approval prior to acquiring the stock of Lending Tree, Inc. (MB –1120)

Michael J. Rappaport – 7/6/00 paid $1,000 for failure to obtain Commission approval prior to acquiring the stock of Residential Lending Corporation (MLB – 591)

SURETY BOND CLAIMS

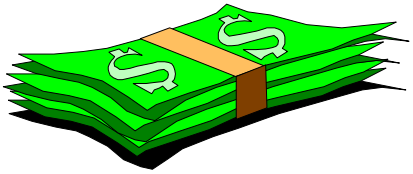
Since July 1, 1999 the following bond claims have been filed by the Bureau and paid to borrowers:

ML – 247 Morcap, Inc. -- $937.50 bond claim paid 11/8/99 – LICENSE SURRENDERED 4/28/99

MB – 712 Prestige Financial Services Corporation -- $1,035.50 bond claim paid 4/21/00 – LICENSE SURRENDERED 7/21/99

MB – 1100 Alliance Home Mortgage Corporation -- $886.90 bond claim paid 4/18/00 – LICENSE SURRENDERED 2/25/99

MLB – 180 United Mortgagee, Inc. -- $1,825.31 bond claim paid 4/20/00



There are currently eleven additional bond claims pending, totaling $38,192.00

Broker Mistake: (continued from Page 1)

The law is very clear – if there is no written agreement there can be no payment of broker fees (i.e.: "points, processing fee). This topic is discussed in detail during the quarterly Mortgage Orientation for new licensees, yet we continue to find such violations.

As you know, the Bureau holds a surety bond in the amount of $5,000 for mortgage brokers and $10,000 for mortgage lenders and mortgage lenders/brokers. One purpose of the bond is to protect borrowers or prospective borrowers from licensees who fail to properly account for fees received or comply with applicable laws, rules and regulations. We provide licensees ample time to respond and provide documentation to substantiate the fees they collect, but when "supporting" documentation is inadequate or no response is received, we will file a claim against the bond to provide the borrower restitution. The number of bond claims filed by the Bureau has increased in recent years due to uncorrected overcharges (see "Surety Bond Claims"). Claims are typically filed when (1) licensees go out of business without refunding overcharges cited in the Report, (2) licensees cannot properly dispute the facts found by the Examiner but refuse to reimburse borrowers for the overcharges; and/or (3) licensees never respond to the Examination Report or the overcharges cited in the Report.

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

The Commission will be closed on Monday, September 4, 2000 in observance of Labor Day and on Monday October 9, 2000 for Columbus Day.

Bureau of Financial Institutions

State Corporation Commission

P.O. Box 640

Richmond, Virginia 23218-0640

IMPORTANT REGULATORY INFORMATION ENCLOSED!!!

The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees **Fall 2000**

INSIDE THIS ISSUE:

Analysts Report Delays……1 & 3

Gramm-Leach-Bliley Act….1 & 5

BFI Basics……...…2

Makeover of Commission Website……3

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@scc.state.va.us.

Welcome to the world - Meredith Orne!

Special thanks to Andrea Leeman for her contribution to this issue!

Analysts Report Delays in Receiving Required Information:

The Bureau's analysts have reported difficulty in receiving completed officer's questionnaires from licensees. The delays are especially noted during "off-site examinations" (when out-of-state licensees send copy files to the Bureau for review) but occur during "on-site" exams as well.

In certain circumstances, the Bureau allows low-volume, out-of-state mortgage licensees to send the completed officer's questionnaire, copy of loan files and other requested documentation to the Bureau for review. This eliminates the expense incurred by the licensee for conducting an out-of-state exam (transportation, lodging, per diem). When possible, licensees are given the option of having the examination conducted at their office(s) or sending the necessary documentation and loan files to the Bureau. (continued on Page 3)

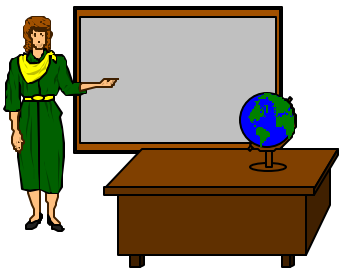
Gramm-Leach-Bliley Act: What it means to you:

The Gramm-Leach-Bliley Act, also known as the Financial Services Modernization Act (the "Act") was signed by the President on November 12, 1999.

The Act requires every "financial institution" to provide notice to customers about its privacy policies and practices; to describe the conditions under which a financial institution may disclose nonpublic personal information about consumers to nonaffiliated third parties; and to provide a method for consumers to prevent a financial institution from disclosing that information to certain nonaffiliated third parties by "opting out" of that disclosure, subject to various exceptions as stated in the rule.

Rules issued by federal regulatory agencies include definitions of specific terms used in the Act, such as "nonpublic personal information", "customer", "consumer", "financial institution", "affiliate", "clear and conspicuous" and many others. The definition of "financial institution" in the Rule includes, but is not limited to, consumer finance companies, mortgage lenders, mortgage brokers, real estate appraisers and entities who provide real estate settlement services. (continued on Page 5)

Attention New Mortgage Licensees:



Friday, February 16, 2001 is the date of the next orientation for new mortgage licensees. Companies who are licensed between October 1st and December 31st 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!

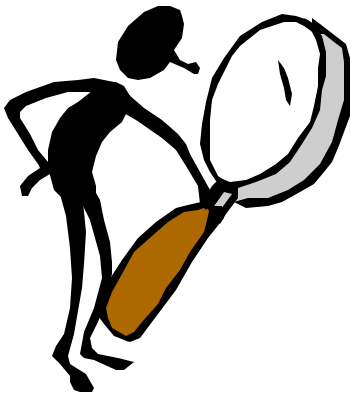
BFI Basics:

As we come to the end of the year, we thought it might be helpful to provide a brief snapshot of the Bureau's Consumer Finance and Mortgage Section – what entities we regulate, the make-up of our staff and an overview of the examination process.

Our section is responsible for the regulation of mortgage lenders and brokers, consumer finance companies, check cashing companies, non-profit debt counseling agencies, industrial loan associations and money order sellers/transmitters (see the chart below for the number of specific licensees). The Consumer Finance and Mortgage section currently consists of nine field analysts, two office analysts, a principal office technician and the Deputy Commissioner -- thirteen employees to regulate 1395 licensees. When we started examining mortgage licensees in 1988, we had a staff of 16 and approximately 600 licensees.

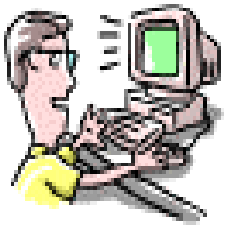
As you can imagine, the bulk of our time is spent examining mortgage lenders, brokers and consumer finance companies. We are required to examine these licensees at least once in every three-year period. Once the analyst conducts the examination, he completes the analyst's portion of the Report, reviews the licensee's section of the Report and submits the completed Report to the office for review. Before the Report is mailed to the licensee for their response, it must be logged into our computer system and reviewed by an office analyst. Unfortunately, due to the ever increasing number of licensees (and the decreasing number of examination staff) the review process takes longer than we would like, but be assured we are doing all that we can to shorten the time involved in the examination process.

Breakdown of licensees (as of 10/17/00):



TYPE OF LICENSEE	NUMBER OF LICENSEES
Mortgage Brokers	633
Mortgage Lenders	143
Mortgage Lender and Brokers	235
Consumer Finance Companies	283
Check Cashers	40
Non-Profit Debt Counselors	14
Industrial Loan Associations	8
Money Order Sellers/Transmitters	39
TOTAL	**1395**

Millenium Makeover for Commission Website:



Have you been to the Commission's website lately? The site received a much needed facelift in October. It contains much of the same information as before, but with a more current look and logical progression. Results of a survey completed last September helped in determining how best to modify the site to make it more appealing to users.

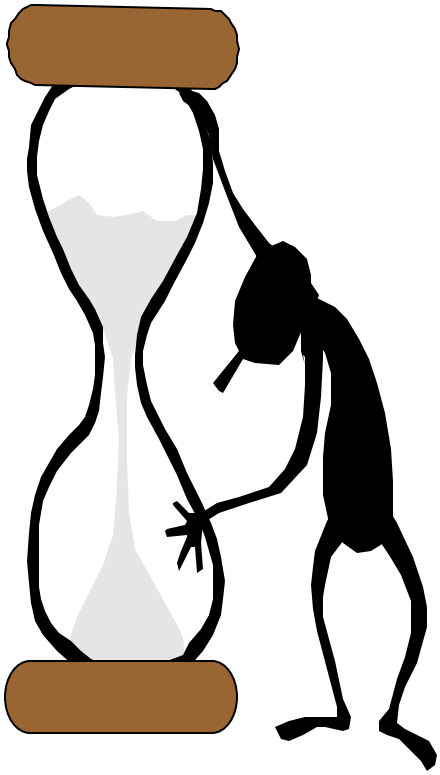
Virginia is on the fast track toward electronic government, and the Commission is doing its part to maintain the pace. The Commission will soon launch an experimental e-filing program (in the Office of the Clerk of the Commission) and continue its work to make more information available via the web and to make many of its functions interactive.

www.state.va.us/scc

Examiners Report Delays (continued from Page 1)

Off-site examinations are not feasible for out-of-state licensees with larger loan volumes.

Delays have also been noted during "on-site" exams. The questionnaire is now available on disk or via e-mail, for those licensees who indicated that it was too difficult and time consuming to type their responses "the old fashioned way". Please take the time to complete the questionnaire while the analyst is in your office. Delaying the completion of the questionnaire usually results in additional time spent (by licensees and analysts) with phone calls and meetings to finalize the process. This increases the overall cost of regulation.



Delays have also been experienced in receiving written responses to Reports of Examination. Too much time is spent by Bureau staff following up (via phone calls and letters) with licensees who do not respond at all or do not address the issues cited in the Report. The number of analysts assigned to conduct the examinations and review the final report has decreased in the last five years, but the number of licensees has steadily increased (see related article on Page 2). We would prefer to spend the time currently used following up on written responses to review other reports and investigate unlicensed lenders/brokers, fraudulent activity and abusive lending practices. Again, such delays increase the cost of regulation.

Timely responses to Bureau requests for documentation are essential to the examination process. If delays in receiving the required documentation continue to occur, the Bureau may decide to conduct all examinations on-site regardless of the travel involved.

We ask you to respond quickly and completely to requests from analysts for examination materials and to provide a written response to examination findings within the time frame specified in the cover letter sent with the Report. The quicker you respond to us, the quicker the examination process is over!

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 July 15, 2000**. We hope the list is helpful in keeping track of companies with which you do business. **These lists are accurate as of October 20, 2000.** Call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission.

MORTGAGE LICENSES SURRENDERED SINCE JULY 15, 2000

MB – 926 Smith Mortgage Company, LLC – 7/15/00

MB – 785 Nationwide Mortgage Services, Inc. – 7/24/00

MB – 1557 Woodmont Mortgage Corp. – 7/25/00

MB – 1305 James W. Reed – 7/25/00

MB – 820 Atlantic Coast Capital, Inc. – 7/25/00

MB – 39 Chaplin Mortgage Investment Corp. – 7/31/00

MLB – 499 Congressional Funding, Inc. – SURRENDERED LENDER AUTHORITY ONLY – NOW MB – 1622 – 8/1/00

MB – 1242 Cheryl L. Saunders d/b/a Plan B Mortgage – NOW LICENSED AS PLAN B MORTGAGE SERVICES, INC. (MB – 1598) – 8/7/00

MLB – 593 Madison Mortgage & Finance, LLC – SURRENDERED LENDER AUTHORITY ONLY – NOW MB – 1635 – 8/15/00

MLB – 614 Country Funding, Inc. – 8/21/00

MLB – 329 America's Funding Group, Inc. d/b/a AFG Equity Services – 9/8/00

MB – 1119 Intersouth Mortgage, Inc. – 9/11/00

ML – 416 Westmark Mortgage Corporation – 9/12/00

MB – 1444 Russell S. Watson t/a First American Home Equity – NOW LICENSED AS FIRST AMERICAN HOME EQUITY (MB – 1619) – 9/29/00

ML – 303 Fidelity Mortgage Funding, Inc. – 9/29/00

MLB – 441 Coastal Mortgage Corporation of Maryland – 9/30/00

MB – 1617 Anchor Financial Group, Inc. – 10/10/00

MB – 1233 Realty Capital Group, Incorporated d/b/a Equity Funding Group – 10/12/00

MORTGAGE LICENSE REVOCATIONS SINCE JULY 15, 2000

MLB – 503 Island Mortgage Network Inc. d/b/a Apponline.com – 10/18/00 – Revoked pursuant to §6.1-425 of the Code of Virginia for failing to disburse loan proceeds as required by the Code of Virginia

MORTGAGE APPLICATIONS DENIED SINCE JULY 15, 2000

MB – 1573 Vincent O'Niel Jones – 8/31/00

MB –1605 Prime Financial Group, Inc. – 9/28/00

MB – 1545 Newport Shores Mortgage, Inc. – 10/2/00

Mirador Diversified Services, Inc. was denied permission to acquire 100% of United Mortgagee, Inc. (MLB – 180) – 8/31/00

PENALTIES PAID BY MORTGAGE LICENSEES SINCE JULY 15, 2000

MB – 1065 Choice Mortgage Corporation – 8/16/00 – Paid $15,000 for various violations of the Mortgage Lender and Broker Act

MLB – 318 Mortgage Edge Corporation – 10/12/00 -- Paid $12,000 for various violations of the Mortgage Lender and Broker Act

The following licensees were fined on September 14, 2000 for failure to file the Annual Report by March 1, 2000 as required by Section 6.1- 418 of the Code of Virginia:

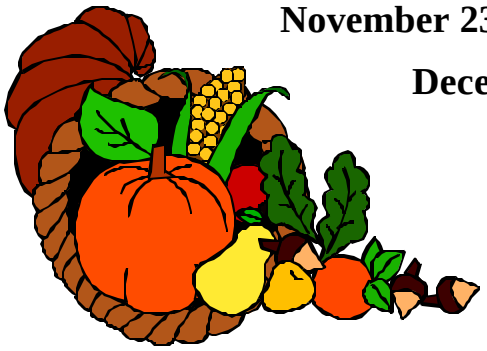
MLB – 49 Continental Mortgage & Investment Corporation – Paid $300
MB – 711 Global Funding Group, L.C. – Paid $300
MB – 754 First Mid Atlantic Mortgage Corporation, Incorporated – Paid $300
MB – 1137 Dominion First, Inc. – Paid $300
MB – 954 Equitable Mortgage Group, Inc. – Paid $300
MB – 979 North Atlantic Mortgage Corporation – Paid $300
MB – 1143 Seniors First Mortgage Company, LLC – Paid $300
MB – 896 The Funding Group, Inc. – Paid $300
MB – 842 Integrity Mortgage & Finance, Inc. – Paid $300
MB – 560 McLean Funding Group, Inc. – Paid $300
MLB – 390 Monument Mortgage Corporation – Paid $300
MB – 634 Mortgage Concepts, Inc. – Paid $300
ML – 323 Mortgage Network USA, Inc. – Paid $300
MLB – 197 Mortgage Service Center, Inc. – Paid $300
MB – 408 Premier Mortgage Corporation – Paid $500

Gramm-Leach-Bliley Act (continued from Page 1)

Licensees affected by the requirements of the Act must take the steps necessary to comply with the provisions of the Act and its Rules by July 1, 2001, the date set for mandatory compliance.

Information for this article was obtained from the Federal Trade Commission's Final Rule 16 CFR 313 (http://www.ftc.gov/os/2000/05/65fr33645.pdf). We suggest you review this website for additional information and/or seek legal advice to ensure compliance with the Act.

Upcoming Commission holidays are scheduled for the following dates:



November 23rd – 24th Thanksgiving Holiday (Nov. 22nd Noon Closing)

December 25th - 26th Christmas Holiday (Dec. 22nd Noon Closing)

January 1st – 2nd New Year's Holiday

January 12th Lee - Jackson Holiday

January 15th Martin Luther King, Jr. Holiday

IMPORTANT COMMISSION TELEPHONE NUMBERS

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

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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!!!

The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees **Winter 2001**

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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@scc.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

MB – 1567 Central Mortgage & Finance, LLC – 10/31/00

MLB – 575 First Financial Funding Group, Inc. (used in VA by First Financial Funding Group) – 11/6/00

ML – 395 PrimeSource Financial, LLC – 11/16/00

ML – 324 The Mortgage Factory, Inc. (used in VA by Resource One, Inc.) – 11/16/00

ML – 258 Wholesale Mortgage, Inc. – 11/27/00

MLB – 650 iOwn, Inc. d/b/a iOwn.com – 11/27/00

ML – 410 Gulfstream Financial Services of Oklahoma, Inc. – 12/4/00

MLB – 197 Mortgage Service Center, Inc. – **SURRENDERED LENDER AUTHORITY ONLY – NOW MB – 1686 – 12/4/00**

MB – 1268 Stephanie K. Crabtree t/a Emerald Financial – 12/13/00

ML – 343 HomeSpace Services, Inc. – 12/20/00

ML – 58 ContiMortgage Corporation – 12/21/00

MLB – 611 First Financial, Inc. d/b/a E-Jumbo – 12/21/00

MLB – 582 American Skycorp, Inc. – 12/22/00

MB – 576 American Financial Group, Inc. – 12/26/00

MB – 814 LFS Mortgage Corporation – 12/27/00

MB – 1267 Kochummen K. Thomas d/b/a A-1 Realty Mortgage Company – 12/29/00

ML – 260 Associates Financial Services Company of Tennessee, Inc. – 12/31/00

ML – 262 Associates Mortgage Services of America, Inc. (used in VA by Associates Financial Services of America, Inc) – 12/31/00

(continued on next page…)

MORTGAGE LICENSES SURRENDERED (continued)

ML – 22 Associates Financial Services of America, Inc. – 12/31/00

ML – 347 Mortgage.Com, Inc. – 12/31/00

MB – 900 Charles Lee Tighe d/b/a First Coastal Mortgage – 12/31/00

MB – 1254 Trust Mortgage Corporation – 12/31/00

MB – 851 Main Street Mortgage and Investment Corporation – 1/1/01

ML – 404 Paragon, Inc. – 1/16/01

MB – 1387 HomeStar, Inc. – 1/19/01

MB – 604 Rock Creek Mortgage Corporation – 1/19/01

MLB – 463 RBO Funding, Inc. t/a Loan Aid – 1/19/01

ML – 382 AmeriCredit Corporation of California d/b/a AmeriCredit Mortgage Services – 1/25/01

MB – 1142 Abbey Mortgage and Financial Services, Inc. d/b/a Abbey Mortgage – 2/05/01

ML – 334 Lendex, Inc. – 2/9/01

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)

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Bureau of Financial Institutions

State Corporation Commission

P.O. Box 640

Richmond, Virginia 23218-0640

IMPORTANT REGULATORY INFORMATION ENCLOSED!!!

The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees **Spring 2001**

INSIDE THIS ISSUE:

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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@scc.state.va.us.

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

General Assembly Passes New Laws:

The Virginia General Assembly passed and the Governor signed bills that amend the Consumer Finance Act and the Mortgage Lender and Broker Act. The laws enacted by the 2001 General Assembly relating to Financial Institutions are available on the Bureau's web site: http://www.state.va.us/scc/division/banking/index.htm. The 2001 Supplement to the Laws of Virginia Related to Non-Depository Financial Services will be mailed to all licensees once printed, later this summer. **All law changes go into effect July 1, 2001.** The following is a brief summary of the bills passed. Please review the entire statute and consult your legal counsel with any questions that you may have about how these changes will affect your operations.

Senate Bill 863 Consumer Finance Act; loan amounts.

This bill repeals the restrictions that currently limit the maximum amount of loans under the Act to $6,000 and the maximum term of such loans to 61 months. It also authorizes licensed lenders to impose a late charge, not to exceed five percent of the delinquent loan installment and to charge loan processing fees. Reference §§ 6.1-249, 6.1-272.1, 6.1-278, 6.1-285, 6.1-288, 6.1-291, of the Code of Virginia. Section 6.1-286 of the Code was repealed. (continued on Page 5)

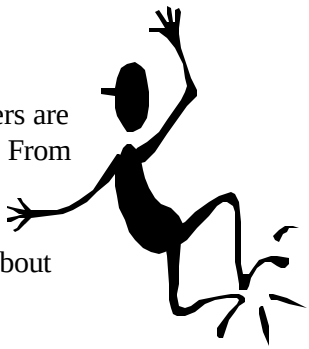
Surety Bond Requirement Increases:

Section 6.1-413 of the Code of Virginia was amended to require licensees to provide a bond "in the sum of $25,000 or such greater sum as the Commissioner may require". Commissioner Face issued Administrative Ruling 1609, which sets the surety bond requirements for licensed mortgage lenders and/or brokers. Effective July 1, 2001, mortgage broker licensees and applicants must have a surety bond for $25,000 and mortgage lender and lenders/broker licensees and applicants must have a surety bond in the amount of $50,000 in place with the Bureau. A copy of this Ruling was mailed to each mortgage licensee during the week of May 22, 2001.

Currently, the minimum bond is $5,000 for brokers and $10,000 for lenders and lender/brokers. In recent years, it has been necessary to file claims against licensee's bonds and in several instances, the amount of the bond has been insufficient to cover the amount of the claims filed on behalf of consumers. Bureau staff also researched bond requirements in other states before the decision to increase the bond amounts were made.

NOTE: A rider increasing your current bond to the new required amount is acceptable. A copy of Administrative Ruling 1609 is available on our web site at:http://www.state.va.us/scc/division/banking/adminrules.htm.

Appraiser Information:



Did you know that you can check the license status of Virginia appraisers on the web? Appraisers are licensed through the Virginia Department of Professional and Occupational Regulation (DPOR). From DPOR's website, http://www.dpor.state.va.us/regulantlookup/, you can verify the appraiser's license type, license number, address, initial certification date and expiration date. Information can be searched either by the individual appraiser's name or by the business' name. To inquire about complaint information, contact DPOR's Enforcement Division at (804) 367-8504.

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 February 15, 2001**. We hope the list is helpful in keeping track of companies with which you do business. **These lists are accurate as of May 15, 2001.** 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 website at: http://www.state.va.us/scc/division/banking/vamortgagelist.htm .

MORTGAGE LICENSES SURRENDERED SINCE FEBRUARY 15, 2001

MB – 1400 James Russell Stephenson – 2/16/01

MB – 885 Margaret E. Hill – 2/16/01

MB – 214 Phil L. Hatcher – 2/16/01

MB – 1172 Richard Alan Kavanaugh – 2/16/01

MB – 240 Elizabeth R. Hitchcock – 2/16/01

MB – 210 Larry D. Hogston – 2/16/01

MB – 220 Roy E. Nunn – 2/16/01

MB – 1549 William E. Hendricks – 2/16/01

MB – 172 Sheldon D. Walter – 2/16/01

MB – 459 James M. Cumming, II – 2/16/01

MB – 152 Norma M. Skeete – 2/16/01

MB – 1344 William F. Young – 2/16/01

MB – 839 Mary Clare Hatley – 2/16/01

MB – 678 Esther Martinez-Baldivia – 2/16/01

MLB – 598 Charles F. Curry Company – 2/21/01

MB – 1468 Samuel E. Bishop, III – 2/21/01

MB – 1469 Jeanette C. Bishop – 2/21/01

MB – 199 Peggy Turner – 2/21/01

MB – 1348 John R. Graves – 2/22/01

MB – 1668 Carol Kessler Tear – 2/22/01

MB – 1146 Hedwig Katharina Crosswhite – 2/22/01

MB – 679 Leslie James Cotsamire – 2/22/01

ML – 272 WMA Mortgage Services, Inc. – 2/26/01

MB – 593 Chistopher Lieberman T/A ABC Home Mortgage – 2/26/01

ML – 196 Advanta Finance Corp. – 2/28/01

MLB – 220 First Jefferson Mortgage Corporation d/b/a First Jefferson Funding – 3/1/01

MB – 1121 The Mortgage Vault, Inc. – 3/2/01

ML – 427 LoansDirect, Inc. – 3/9/01

MB – 1486 Access Equity, LLC – 3/12/01

MB – 1186 Mountain Empire Mortgage Broker, Inc. – 3/14/01

MB – 137 Douglas R. Fox d/b/a Fox Mortgage Associates – 3/14/01

ML – 269 Transamerica Mortgage Company – 3/15/01

MB – 1155 First Horizon Home Mortgage, Inc. – 3/15/01

(continued on next page…)

LICENSES SURRENDERED (continued)

MB – 574 John J. LaMorte – 3/19/01

MB – 1346 Linda Gubitosi – 3/19/01

MB – 879 James Kevin Burcham – 3/19/01

MB – 775 Barbara Ann Sauls – 3/19/01

MB – 655 Jer-Tag Enterprises, Inc. d/b/a Jer-Tag Mortgage – 3/21/01

MB – 1507 Beacon Mortgage Services, Inc. – 3/22/01

MB – 317 Equity One of Virginia, Inc. – 3/23/01

MB – 235 Crosstate Mortgage & Investments, Inc. – 3/30/01

MLB – 553 Malone Mortgage Company America, Ltd. L.P. (used in Virginia by Malone Mortgage Company of America, Ltd.) – 3/31/01

MLB – 577 First National Funding Corporation of America d/b/a FNF Mortgage – 4/5/01

MB – 1066 Quan N. Phung d/b/a Sunrise Mortgage – 4/9/01

MB – 365 Eastern Fidelity Mortgage Corporation – 4/9/01

MLB – 287 Fundmor, Inc. – 4/9/01

MLB – 340 Residential Money Centers, Inc. – 4/12/01

MLB – 544 Century Financial Group, Inc. – 4/13/01

MB – 1258 Divinity Mortgage Corporation – 4/18/01

MLB – 641 Parkway Mortgage, Inc. – 4/19/01

MB – 181 Firstport Mortgage Corporation – 4/27/01

MLB – 369 First Republic Mortgage Corporation – 4/27/01

MB – 1463 Northern Virginia Mortgage Corporation – 4/27/01

ML – 246 Cross Keys Capital, L.P. – 4/30/01

MLB – 434 Unity Mortgage Corp. d/b/a The Reverse Mortgage Company – 5/4/01

ML – 292 Financial Network Alliance, L.L.P. – 5/8/01

ML – 436 Western Home Mortgage Corporation – 5/10/01

MLB – 620 Evergreen Moneysource Mortgage Company d/b/a firstimeloan.com – 5/11/01

MORTGAGE LICENSE REVOCATIONS SINCE FEBRUARY 15, 2001

MB – 1008 United Mortgage & Financial Services, Inc. – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia -- 3/2/01

ML – 348 Metropolitan Home Mortgage Corporation of New York – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia -- 3/2/01

ML – 378 Lakeland Regional Mortgage Corporation – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia -- 3/2/01

MB – 1343 American Trust Mortgage Corp. – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia -- 3/2/01

MLB – 481 California Lending Group, Inc. d/b/a United Lending Group – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia -- 3/2/01

MLB – 303 Capitol Mortgage Bankers, Inc. – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia -- 3/2/01

MLB – 413 Imperial Home Loans, Inc. – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia -- 3/2/01

(continued on next page)

LICENSES REVOKED (continued)

MLB – 492 Gulfstream Financial Services of N.C., Inc. – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia -- 3/2/01

MB – 1206 Elite Financial Services, Inc. – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia 3/2/01

ML – 263 DMR Financial Services, Inc. d/b/a DMR Mortgage Services – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia -- 3/2/01

MB – 1306 Davenport-Dukes Mortgage Service Corporation – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia -- 3/2/01

MB – 1457 Robert W. Carty d/b/a Highland Mortgage – for failure to pay annual fee pursuant to §6.1-420 of the Code of Virginia -- 3/2/01

ML – 321 American Mortgage Capital, Inc. – for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia -- 5/7/01

MB – 1090 Potomac Mortgage Corporation – for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia -- 3/30/01

PENALTIES PAID BY MORTGAGE LICENSEES SINCE FEBRUARY 15, 2001

MLB – 453 CBSK Financial Group, Inc. d/b/a American Home Loans – 5/14/01 – paid a settlement of $5,000 for various violations of the Mortgage Lender and Broker Act

MORTGAGE APPLICATIONS DENIED SINCE FEBRUARY 15, 2001

MB – 1680 Sabatini & Associates, LLC – 3/26/01

ML – 477 Select Mortgage Corporation – 5/4/01

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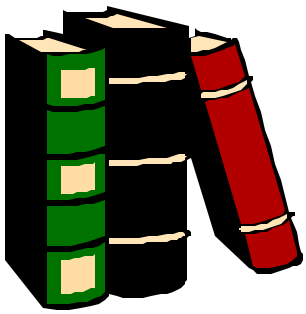
New Laws (continued from Page 1)



House Bill 2471: Mortgage Lender and Broker Act: exemption for real estate broker.

This bill allows a real estate broker who (1) is either an owner of an interest in a real estate firm, or (2) acts as a real estate broker in a sole proprietorship, to have an ownership interest in a mortgage broker or lender, or to receive returns on investments arising from such ownership, or payment of compensation for services actually performed for the mortgage lender or broker. Reference § 6.1-422C of the Code of Virginia.

House Bill 2787: Mortgage Lenders and brokers; predatory lending practices.

This bill (1) increases the maximum penalty for a violation of the Mortgage Lender and Broker Act from $1,000 to $2,500, and (2) increases the amount of the bond that mortgage lenders and broker are required to post from $5,000 to $25,000 (see "Surety Bond Requirement Increases" article on Page 1 of this issue for more details). It also prohibits a mortgage lender from recommending or encouraging a person to default on an existing loan or other debt, if such default adversely affects a person's credit worthiness, in connection with the solicitation or making of a refinancing mortgage loan. Reference §§ 6.1-413, 6.1-422, 6.1-428 of the Code of Virginia.

Senate Bill 1103: Mortgage brokers; licensure.

This bill provides that bona fide employees and exclusive agents of a licensed mortgage broker may negotiate, place or find mortgage loans without obtaining their own license under the Mortgage Lender and Broker Act, ***subject to conditions set forth by the Commission***. Reference § 6.1-410 of the Code of Virginia.

House Bill 2708: Mortgage loans; prohibits "flipping".

This bill prohibits mortgage lenders and brokers from flipping mortgage loans. "Flipping" a mortgage loan means refinancing a mortgage loan within 12 months after the refinanced loan was originated, when the new loan does not result in any benefit to the borrower considering all of the circumstances. The Attorney General's office is authorized to enforce the prohibition. Reference §§ 6.1-422.1, 6.1-430 of the Code of Virginia.

Additional Information Available Online!

Administrative Rulings are now available on our web site(http://www.state.va.us/scc)! In the past, the only way to obtain these rulings were via fax or by mail, but now you can reference them with the touch of a few keys on your computer! Also, by accessing the Commonwealth's Legislative Information System, you can see the statutes that were passed or amended during this past session of the General Assembly. To locate specific bills passed during this last session, visit: http://leg1.state.va.us/011/bil.htm and enter the bill number!

Attention New Mortgage Licensees:

Friday, August 17, 2001 is the date of the next orientation for new mortgage licensees. Companies who are licensed between April 1, 2001 and June 30, 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!

State offices will be closed on Wednesday, July 4, 2001 in observance of Independence Day.

Bureau of Financial Institutions

State Corporation Commission

P.O. Box 640

Richmond, Virginia 23218-0640

IMPORTANT REGULATORY INFORMATION ENCLOSED!!!

The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees **Fall 2001**

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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@scc.state.va.us.

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

In Remembrance: Paul "Bud" West:

On Thursday, November 29th, Bud West, an 18-year veteran of the Bureau of Financial Institutions, lost his battle with cancer. As a senior financial analyst with the Bureau, Bud handled thousands of complaints and inquiries from Virginians regarding mortgage and consumer finance licensees, as well as state-chartered banks and credit unions.

The remarkable thing about Bud, according to Commissioner Joe Face, is that he never once complained about his work and always "went the extra mile to help a consumer, even when the Bureau had no jurisdiction." Bud often became the consumer's last hope and he clearly made a difference. The Bureau has received numerous letters and telephone calls of thanks as a result of Bud's work over the years.

A proud native of Texas, every March 2nd Bud treated Bureau staff to a Texas shaped cake to celebrate Texas' Independence Day. His secretary of many years, Evelyn Taylor, said that Bud told some wonderful stories about his life as a young man growing up in Texas and added that his life in Texas was "anything but dull".

Bud leaves a wife, two daughters, two grandchildren, a sister and many friends.

Note from the Commissioner – E.J. Face:

As you read in the last edition, long-time Senior Counsel Bill Schutt retired effective October 1, 2001. After interviewing several candidates, the internal interview panel selected Jonathan B. Orne to fill the vacant position of Senior Counsel.

Mr. Orne is not new to the State Corporation Commission or the Bureau. He joined the SCC in 1986 after many years in private general law practice. Mr. Orne was also the former Assistant Director and Staff Attorney for the Metropolitan Richmond Legal Aid Project. Jon holds an undergraduate degree in Economics from Oberlin College in Oberlin, Ohio, and a law degree from the University of North Carolina School of Law.

As Senior Counsel, John's responsibilities will be advising the Bureau on all legal matters related to financial institutions regulated by the Bureau of Financial Institutions, including depository and non-depository institutions. Congratulations to Jon Orne.

Attention New Mortgage Licensees:

Friday, February 8, 2002 is the date of the next orientation for new mortgage licensees. Companies who are licensed between October 1, 2001 and December 31, 2001 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!

Mortgage Reminders:

- Mortgage Brokers beware! Failure to obtain the borrower's signature on a contract for compensation (broker agreement) prior to receiving the broker fee and/or failure to correctly specify the broker fee(s) on the agreement continue to be the most common broker error. Analysts continue to cite this violation as an overcharge and reimbursement is required.
- The office has received several calls from brokers concerning co-brokering arrangements. Please remember that all brokers who receive compensation in connection with a Virginia mortgage loan must be licensed by our office in the Commonwealth of Virginia, each broker must obtain an agreement for their compensation, retain the required documents and properly report this business on their annual report filed with the Bureau. Brokers and lenders should also be aware of RESPA's Statement of Policy 1999-1, which provides guidance in determining whether a payment from a lender to a mortgage broker is permissible. HUD requires that mortgage brokers answer two questions: were goods or facilities actually furnished or services actually performed and are the payments reasonably related to the value of the goods or facilities actually furnished or services actually performed. Check out HUD's web site to read more about this policy statement (www.hud.gov).
- Mortgage brokers who originate mortgage loans on Virginia residential property must be licensed prior to conducting this type of business in the Commonwealth. This includes internet brokers. Licensees must conduct due diligence to determine if companies they do business with are properly licensed in Virginia. Compensating or offering to compensate unlicensed mortgage brokers is a violation of Administrative Ruling 1603.

Surety Bond Claims:

Since July 2000, the following surety bond claims were filed by the Bureau and paid to borrowers:

MLB – 257 NF Investments, Inc. -- $536 claim paid on 8/22/00 – License surrendered 5/5/00

ML – 287 National Home Loan Corporation -- $3,189.34 claim paid on 7/18/00 -- License revoked 5/17/00

MB – 504 Centurion Financial, Ltd. -- $1,920 claim paid on 7/25/00 – License revoked 5/17/00

ML – 183 Altiva Financial Corporation (formerly Mego Mortgage Corporation) -- $5,577 claim paid on 10/12/00 – License surrendered 4/14/00

MLB – 438 National Finance Corporation -- $411 claim paid on 11/22/00 – License revoked 5/17/00

MB – 78 The Phoenix Financial Corporation of Virginia, Inc. -- $1,185 claim paid on 12/1/00 – License revoked 5/17/00

MB – 181 Firstport Mortgage Corp. -- $3,532.25 claim paid on 3/13/01 – License surrendered 4/27/01

MB -- 1310 Platinum Mortgage, Inc, -- $5,000 claim paid on 5/14/01 – License revoked 10/30/01

SURETY BOND CLAIMS (continued)

MLB – 445 First Home Acceptance Mortgage Corp. -- $1,130.17 claim paid on 5/8/01 – License revoked 5/17/00

MB – 895 American Funding Network -- $3,193.00 claim paid on 5/21/01 – License revoked 5/17/00

MLB – 601 Landmark Financial Service, Inc. d/b/a 1-800-HOME-LOAN -- $7,118.33 claim paid on 6/1/01 – License revoked 2/12/01

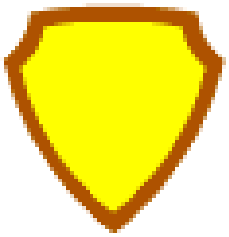
MLB – 449 Consumer Security Mortgage, Inc. -- $10,000 claim paid on 6/14/01 -- License surrendered 4/8/99

MB – 1064 Home Lending, LC d/b/a American Mortgage Partners -- $2,551.85 claim paid on 7/16/01 – License surrendered 7/23/99

MB – 908 The Loan Company -- $3,410 claim paid -- License surrendered 2/4/00

ML – 277 MG Investments, Inc. -- $1,092 claim paid on 10/30/01 – license revoked 6/19/01

U.S. Customs Awards Plaque:



On November 8, 2001, the United States Customs Service in Washington D.C. recognized Deputy Commissioner Nicholas Kyrus of the Bureau of Financial Institutions for his "outstanding contribution to a US Customs Service money laundering investigation". Mr. Kyrus was one of four individuals presented with a plaque for assisting with the investigation which led to the conviction of two individuals and also a break up of a $100 million multi-state money laundering operation.

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 August 15, 2001**. We hope the list is helpful in keeping track of companies with which you do business. **These lists are accurate as of November 15, 2001.** 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 LICENSES SURRENDERED SINCE AGUSUT 15, 2001

MB – 1273 Sierra Mortgage Corporation – 8/21/01

MLB – 613 Positive Mortgage, Inc. – 8/30/01

MB – 1421 Jonathan Aronson d/b/a First Capital Mortgage – 9/6/01

MB – 1139 Old Town Financial Corp. d/b/a Ramsay Mortgage Company – 9/11/01

MLB – 414 HomeComings Financial Network, Inc. – 9/11/01

MB – 1751 Fidelity Funding Mortgage Corp. – 9/11/01

MB – 1059 American Mortgage Financial & Investment Company, Inc. – 9/11/01

ML – 482 Financial Freedom Senior Funding Corporation – 9/18/01

MB – 1390 Alpha Mortgage Corporation – 9/18/01

MB – 1536 Ronnie Belt Cole d/b/a Mid-Atlantic Mortgage – 10/1/01

MB – 485 Mortgage Express Company – 10/16/01

ML – 283 Full Spectrum Lending, Inc. – now EXEMPT– 10/18/01

SURRENDERS (continued)

ML – 33 Countrywide Home Loans, Inc. d/b/a America's Wholesale Lender – now EXEMPT – 10/18/01

MLB – 237 Oakwood Acceptance Corporation – 10/29/01

MB – 991 Consumer Lending Corporation – 11/05/01

MB – 1458 Keystone Mortgage Corporation – 11/5/01

MB – 1600 Star Equity Funding, LLC – 11/9/01

ML – 66 Associates First Capital Mortgage Corporation – 11/14/01

MB – 1476 Mortgage Headquarters Incorporated – 11/15/01

MORTGAGE LICENSE REVOCATIONS SINCE AUGUST 15, 2001

MB – 408 Premier Mortgage Corporation – 8/20/01 – for failure to maintain surety bond pursuant to §6.1-413 of the Code of Virginia

MLB – 446 Bankers First Mortgage Co., Inc. – 9/14/01 – for failure to maintain surety bond pursuant to §6.1-413 of the Code of Virginia

The following revocations occurred on October 30, 2001 as a result of the licensee's failure to provide evidence that the amount of their surety bond was increased pursuant to §6.1-413 of the Code of Virginia and Administrative Ruling 1609:

MB – 1655 Allied Funding Corporation

MB – 1418 Buyer's Edge Mortgage Corporation

MB – 1666 Comstock Mortgage Services, LC

ML – 374 East Coast Mortgage Corp.

MB – 454 First Financial Services of Virginia, Inc. d/b/a American Mortgage Center

MB – 1665 First Government Mortgage and Investors Corporation

MLB – 640 First Residential Mortgage Services Corp.

ML – 450 Ford Enterprises International, Inc. d/b/a Interprise Financial, Inc.

MB – 1063 Janis B. Neal t/a Americomp

MB – 232 Joel Stowe d/b/a JSA Mortgage Centre

MB – 628 Leland Financial Services, Inc. d/b/a Leland Mortgage Company

MLB – 390 Monument Mortgage Corporation

ML – 323 Mortgage Network USA, Inc.

MB – 1731 Mortgage Technology, Inc.

MB – 1024 NationsTrust Mortgage Corporation

MLB – 420 NuMax Mortgage Corporation

MLB – 459 pcloans.com, Inc.

MB – 1310 Platinum Mortgage, Inc.

MLB – 97 Premier Financial Corporation

MB – 1375 Residential Mortgage Associates, Inc.

MB – 1437 Southland Log Homes Mortgage Co., LLC

MB – 1499 The Mortgage Task Group, Inc.

MB – 1676 The Sanford Mortgage Company, LLC.

ML – 325 Title West Mortgage, Inc.

PENALTIES PAID BY MORTGAGE LICENSEES SINCE AUGUST 15, 2001

The following licensees paid penalties for failing to file the annual report by March 1, 2001, in violation of §6.1-418 of the Code of Virginia (all orders are dated 10/30/01):

ML – 276 American International Mortgage Bankers, Inc. --- $500

MB – 559 American Mortgage Bankers, Inc. -- $500

MB – 1369 Calvert Mortgage Company, LLC -- $500

MB – 670 Countryside Mortgage Services, Inc. -- $300

MB – 954 Equitable Mortgage Group, Inc. -- $500

MB – 1077 F & M Mortgage Corporation -- $500

MB – 1315 Fairfax Mortgage, Inc. d/b/a Mortgage Design -- $300

MB – 754 First Mid Atlantic Mortgage Corporation -- $500

MB – 1284 Loan Consolidation and Refinancing Company, LLC -- $300

MB – 1169 Mandarin Mortgage Corp. -- $500

MB – 1321 Olympic Mortgage Group, Inc. -- $500

OTHER PENATLIES PAID SINCE AUGUST 15, 2001

Frank A. Novak – 8/28/01 – paid $1,000 for failing to obtain approval prior to acquiring the voting stock of American Mortgage and Investment Corporation (MB – 1403)

George P. Emerson, Jr. – 10/31/01 – paid $1,000 for failing to obtain approval prior to acquiring one-third ownership of Mortgage Virginia, LLC (ML – 370)

Technical Olympic USA, Inc. – 10/30/01 – paid $1,000 for failing to obtain approval prior to acquiring the stock of Preferred Home Mortgage Company (MLB – 549)

BNC Holdings, Inc. – 10/30/01 – paid $1,000 for failing to obtain approval prior to acquiring the stock of BNC Mortgage, Inc. (MLB – 535)

IMPORTANT COMMISSION TELEPHONE NUMBERS

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

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

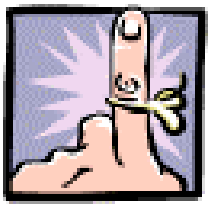
Consumer Complaints…..(804) 371-9705

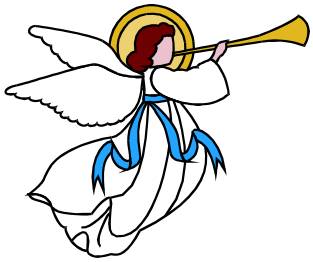
Banks and Savings Institutions…..(804) 371-9704

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

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

Annual Reports will be mailed out by the end of December to all mortgage and consumer finance licensees. Be sure to complete the form and return it by the date listed – for mortgage licensees, it's due by March 1st, for consumer finance licensees, it's due by April 1st. These forms are also available on our web site at:
http://www.state.va.us/scc/division/banking/forms.htm





The Commission and its employees wish you and your family a very happy, safe and healthy new year!

Bureau of Financial Institutions
State Corporation Commission
P.O. Box 640
Richmond, Virginia 23218-0640

IMPORTANT REGULATORY INFORMATION ENCLOSED!!!

The Compliance Connection

State Corporation Commission - Bureau of Financial Institutions
Regulatory News for Virginia Mortgage and Consumer Finance Licensees **Winter 2002**

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

Commissioner Re-evaluates Position Regarding §6.1-272.1

In the Summer 2001 issue of this newsletter, we reported the Bureau's position that for loans of up to $2,500 made under the Consumer Finance Act, interest could not be charged on a processing fee when such fee was added to the principal amount of the loan (according to Bureau's counsel, this constituted "interest on interest"). For loans $2,500 and above, interest could be charged on the processing fee when the fee was added to the principal amount of the loan.

After further review and consideration of additional information made available to the Bureau, Commissioner Face has now concluded that interest can be charged on the processing fee, when such fee is added to, or combined with the principal amount of the loan, regardless of the amount of the loan. However, since the interest rate on loans of up to $2,500 is still "capped" by statute at 36%, the combined and total interest charged on a principal amount of a loan which includes the processing fee, should not exceed 36%. The Commissioner's position was effective January 10, 2002 and supersedes any previous communications from the Bureau on this subject.

Unlicensed Mortgage Brokers:

In the June 1996 and April 1999 issues of this newsletter, an article entitled "Intermediate Mortgage Activities" was printed. This article sets forth the Bureau's position that telemarketing companies and third party processors may need a mortgage brokers license from the Commission. Recently we have received a number of calls from licensees and others concerning numerous "lead generation companies" asking if this type of activity requires a license. Lead generation companies who directly or indirectly negotiate, place or find mortgage loans for others or offer to negotiate, place or find mortgage loans for others are required to obtain a license before conducting business in Virginia (Refer to the definition of "mortgage broker" in §6.1-409 of the Code of Virginia).

Conducting a mortgage business without a license is a Class 6 felony, and violators could be fined up to $2,500 for each violation, pursuant to §§6.1-428 & 6.1-429 of the Code of Virginia.

To view the above articles go to:
http://www.state.va.us/scc/division/banking/complnc.htm

Changes to Mortgage Lender Questionnaire:

Attention mortgage licensees holding either a *mortgage lender* license or the dual *mortgage lender and broker* license! The Bureau of Financial Institutions has revised the Officer's Questionnaire portion of our Report of Examination to include a few new questions. Please be prepared to answer the following new questions and provide supporting documentation if needed:

1. Please list all mortgage-funding sources available to the licensee. Provide specific information regarding all warehouse lines of credit; e.g., name, contact person, address, and phone number of each warehouse lender.

2. Has any warehouse lender ever terminated a lending relationship with the licensee? If so, please provide the reason for termination and the name, contact person, address, and phone number of that warehouse lender.

3. Are warehouse lines of credit repaid directly by the permanent investor, or is payment made by the permanent investor directly to you, who in turn repays the warehouse line?

4. Are you: a) an approved FHA/VA lender? b) an approved FHA/VA correspondent? c) approved under the FHA direct endorsement program?

U.S. Code Regarding False Statements:

During a recent meeting with federal officials, Bureau staff was made aware of the following federal statute which describes the punishment for making false statements. This law has been successfully used to obtain convictions against mortgage company personnel (i.e.: officers/directors, branch managers, loan officers and processors) and related parties (real estate agents, etc.) when fraud was found in mortgage loan files.

Title 18, U.S. Code, Section 1001 False Statements

(a) except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully –

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
(2) makes any materially false, fictitious, or fraudulent statement or representation; or
(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title or imprisoned not more than 5 years, or both.

Welcome Aboard!

The Bureau is pleased to announce that Todd Rose has joined the SCC's Office of General Counsel. In his capacity as Attorney, Todd's duties will include providing legal guidance to the staff of the Bureau of Financial Institutions.

Todd received his undergraduate degree in Accounting from Rutgers College in New Jersey and his law degree from American University in Washington, D.C. After graduation, Todd worked for five years as Consumer Lending Attorney at SunTrust Mortgage, Inc.

Broker Compensation Memo:

The following information was initially communicated to all mortgage licensees on February 5, 1993 and reprinted in the March 1996 and July 1999 issues of this newsletter. Since many of the current licensees were licensed after these dates and violations of this nature continue to occur, we find it necessary to reprint this information again. This represents the Bureau's position concerning the collection of broker fees without a signed written agreement, which is prohibited by §6.1-422 B (4) of the Code of Virginia. Please review this with all staff and make sure effective policies are in place to ensure that this violation is not occurring in your office. Licensees who violate this section of the code will be required to make reimbursements to the borrower(s).

TO: All Mortgage Licensees

RE: Compensation Retained by Brokers (IE: Broker Fees and Processing Fees)

Numerous violations of Section 6.1-422B(4) of the Virginia Code are being reported by Examiners. This law prohibits mortgage brokers from receiving compensation from borrowers other than that disclosed in a written agreement signed by the borrowers. Compensation (fees charged to the borrower and retained by the broker, i.e.: processing fees and broker fees) shown on the settlement statement/HUD-1 as being paid to the mortgage broker by the borrower, must be disclosed and agreed to by the borrowers(s) in a written agreement. The disclosure of terms, good faith estimate of settlement costs and HUD-1 (required by Section 6.1-2.9:5 of the Virginia Code and RESPA, respectively) are not considered contracts or agreements for compensation per Section 6.1-422B(4).

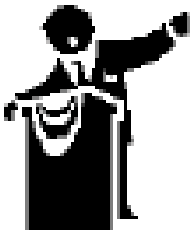
For future reference, please note that violations of this nature will be cited as overcharges and reimbursements will be required. A broker agreement or contract for compensation executed after the violation has been cited will not be acceptable as a corrective measure. Furthermore, in regard to processing fees, please be aware that Section 6.1-330.72 does not allow for such a charge to be made in connection with a subordinate mortgage loan.

Please review the above referenced laws, and take the necessary steps to ensure compliance in future transactions.

Pink Slips are Coming!

Be aware that the Bureau will be sending out assessment notices soon. The Bureau is required to mail out assessments by April 25, 2002 and payment is due by May 25, 2002. Consumer finance licensee assessments must be mailed out by May 1, 2002 and payment is due by June 1, 2002. Keep an eye out for the pink assessment form and make sure you pay on time. Fines can be assessed for late payment and revocation of license will occur if payment is not made.

Attention New Mortgage Licensees:



Friday, May 17, 2002 is the date of the next orientation for new mortgage licensees. Companies who are licensed between January 1, 2002 and March 31, 2002 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!

Duplicate Application Filings No Longer Required:

As of January 2002, applicants for various licenses are no longer required to file duplicate copies of application forms and related documents. All application forms have been revised to reflect this policy change as well as other minor changes. Applicants should immediately begin using the new forms, which show a revision date of 01/ 02 in the upper left corner of the first page. The forms can be downloaded from the Bureau's web site: www.state.va.us/scc/division/banking/forms.htm or they can be requested by calling (804) 371-9690. Since the Bureau of Financial Institutions receives nearly 1500 applications per year, some of them voluminous, this elimination of duplicate copies will result in substantial savings. It is also the first step towards electronic filing which will be considered by the Bureau this year.

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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 November 15, 2001**. We hope the list is helpful in keeping track of companies with which you do business. **These lists are accurate as of February 15, 2002.** 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 LICENSES SURRENDERED SINCE NOVEMBER 15, 2001

MB – 1476 Mortgage Headquarters Incorporated – 11/15/01

MB – 480 The Breckinridge Corporation d/b/a Breckinridge Mortgage – 11/16/01

ML – 435 PSP Financial Services, Inc. – 11/20/01

MB – 1494 Northampton Mortgage, LLC – 11/28/01

MLB –663 CRS Financial Services, Inc. – 11/30/01

ML – 195 Southern Atlantic Financial Services, Inc. – 12/04/01

MB – 1635 Madison Mortgage & Finance, LLC – 12/07/01

MB – 1646 First Priority Mortgage Corporation – 12/07/01

MB – 1759 Washington Home Mortgage Services, Inc. d/b/a Home Mortgage USA – 12/10/01

MB – 1154 Residential Professional Mortgage, LLC – 12/11/01

MB – 1057 Kimberly J. Roberson t/a Middle America Mortgage – 12/15/01

MB – 1360 A. Sareen Mortgage Inc. – 12/17/01

MLB – 531 Stone Castle Financial Inc. – 12/31/01

MB – 982 Express Mortgage, Inc. – 12/31/01

MB – 546 Bethesda-Chevy Chase Mortgage Corporation – 12/31/01

MB – 1862 Millennium Mortgage Investors, Inc. d/b/a M.M.I – 12/31/01

MB – 1470 Dale A. Gauman d/b/a Cleveland Mortgage Services – 1/01/02

MB – 1644 Pamela Doty Piester d/b/a Mortgage Advisory Group – 1/01/02 now licensed as MB-1830 Mortgage Advisory Group, Inc.

MLB – 585 The Homestead Mortgage Company d/b/a Homestead USA, Inc. – 1/08/02

MLB – 645 Finet.com, Inc. d/b/a Finet.com – 1/11/02

MB – 1724 Regal Mortgage Corporation – 1/22/02

MLB – 673 Universal Financial Group, Inc. – 2/4/02

MLB – 318 Mortgage Edge Corporation d/b/a MEC Online – 2/12/02

MB – 1650 Prime Financial Corp. (used in VA by Prime Mortgage Corporation) – 2/14/02

MORTGAGE LICENSE REVOCATIONS SINCE NOVEMBER 15, 2001

ML – 377 Foundation Funding Group, Inc. d/b/a Greatstone Mortgage – 1/30/02 – for failure to maintain surety bond pursuant to §6.1-413 of the Code of Virginia

NOTE: License number MB – 1437 – Southern Log Homes Mortgage Company, LLC, listed in the previous issue as revoked, was **reinstated** by Commission order, dated February 20, 2002.

PENALTIES PAID SINCE NOVEMBER 15, 2001

Donald W. Tidd – 1/30/02 – paid $1,000 settlement for failing to obtain approval prior to acquiring more than 25% of Dominion Mortgage Corporation (MB-1823)

Lock in Pitfalls:

The Bureau issued a news release on February 14, 2002 relating to mortgage rate lock-ins. The news release was issued as a result of numerous inquiries and complaints we have received in the past several months and warns consumers to watch out for certain pitfalls related to lock-ins. The news release is posted on our web site at: www.state.va.us/scc/news/lock.htm.

Bureau of Financial Institutions

State Corporation Commission

P.O. Box 640

Richmond, Virginia 23218-0640

IMPORTANT REGULATORY INFORMATION ENCLOSED!!!

Spring 2002

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 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 Tanya Allen, Susan Hancock, Todd Rose, Jon Orne, Bill Hewlett and Jane Owen for their contribution to this issue!

Virginia Law Prohibits "Upcharging"

Despite information in recent newspaper articles concerning "upcharges" on third-party fees, it is the Bureau's position that it is a violation of the Code of Virginia to collect any amount above the actual cost of a third-party fee. Section 6.1-330.70 of the Code of Virginia allows the collection of "reasonable and necessary" fees in connection with making a first mortgage loan. It is the Bureau's position that any amount collected over and above the actual, documented cost is unreasonable and unnecessary. With regard to subordinate loans, Section 6.1-330.72 of the Code of Virginia restricts collectible charges to the "actual cost" of specific third-party fees (fees for credit report, title exam, title insurance, mortgage guaranty insurance, recording , survey, attorney, appraisal and flood certification).

The recent ruling by the 4th U. S. Circuit Court of Appeals in Boulware v. Crossland Mortgage Corp. stated section 8(b) of the Real Estate Settlement Procedures Act (RESPA) does not prohibit a lender from charging a consumer more for a settlement service than the lender actually paid so long as the overcharge is not kicked back to or split with a third party.

In spite of the 4th Circuit's interpretation of federal law, we will continue to review mortgage loans in accordance with Virginia law to ensure that consumers are only charged the actual cost of third-party fees. Any overcharges will require reimbursement.

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Right of Rescission 101

The Bureau has recently received several inquiries concerning a consumer's right to rescind a mortgage transaction pursuant to the federal Truth in Lending Act and Regulation Z. Federal Regulation Z (the Truth in Lending Act) allows consumers who are refinancing the loan on their principal dwelling to change their mind and rescind the refinance transaction.

In a transaction subject to rescission (for example, the refinance of a loan on a

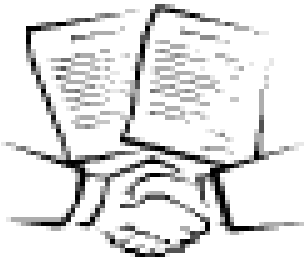
(continued on Page 4)

Payday Lenders: Applications Now Being Accepted

The State Corporation Commission (SCC) is seeking public comment on proposed new regulations regarding payday lenders. The regulations are designed to clarify certain requirements and consumer protections applicable to payday lending licensees and payday loans.

The SCC's proposed new regulations define various terms and address prepayment of payday loans, record-keeping requirements, interest and fees, and responses to requests from the SCC's Bureau of Financial Institutions. They would also require payday lenders to provide prospective borrowers with a pamphlet that explains the borrower's rights and responsibilities regarding payday loans, as well as a warning that payday loans are not intended to meet long-term or recurring financial needs.

Legislation enacted by the 2002 Virginia General Assembly allows payday lenders to transact business in Virginia. The legislation becomes effective and allows payday lenders **licensed** by the SCC to begin such business on July 1, 2002.



The Bureau of Financial Institutions is now accepting applications from companies seeking a license to conduct a payday lending business in Virginia. Application forms are available on the Bureau's Web site at http://www.state.va.us/scc/division/banking/index.htm. Basic requirements for filing an application include a $500 application fee, a surety bond in the sum of $10,000 per location to be licensed up to a maximum bond of $50,000, and evidence that an applicant has at least $25,000 in unencumbered liquid assets per location to be licensed.

Before issuing a license, the Commission must find that an applicant meets the standard tests of financial responsibility, character, reputation, experience and general fitness.

A copy of the SCC's May 28, 2002, order and proposed regulations are available on the Bureau's Web site at www.state.va.us/scc/division/banking.htm or, upon written request, through the Clerk's Office (see telephone number below).

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

Greenspan Addresses CSBS

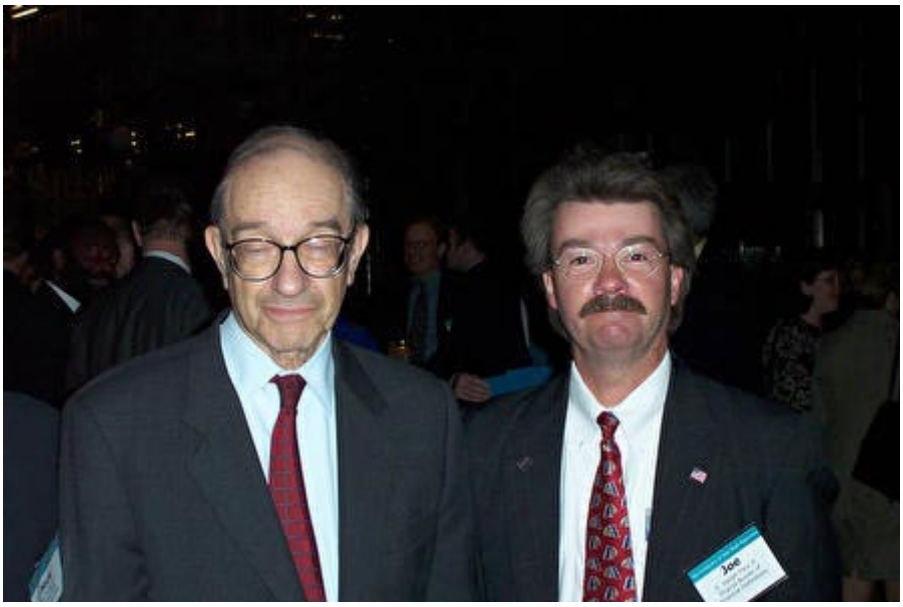
The Conference of State Bank Supervisors' (CSBS) Legislative Committee held its annual Washington Fly-In March 20-21 with Members of Congress and Federal regulators to defend the state banking system and its ability to be innovative.

Delegates kept to a full schedule of policy briefings and visits with members of Congress from noon Wednesday to noon Thursday. CSBS Legislative Committee Chairman E. J. Face, Jr., Virginia's Commissioner of Financial Institutions, chaired the program. The program was designed as a way for CSBS to communicate its position on current legislative issues on Capitol Hill, as well as for commissioners to receive first-hand information from key members of Congress who deal with financial institution issues on a day-to-day basis.

Wednesday afternoon featured presentations by House Financial Services Committee Counsel Carter McDowell and Senate Banking Committee Counsel Naomi Camper on deposit insurance reform. In addition, Ruben Barrales, deputy assistant to the President and director of intergovernmental affairs, discussed the Administration's views on federalism.

Wednesday evening, Commissioner Face introduced Federal Reserve Board Chairman Alan Greenspan who welcomed the CSBS delegation prior to dinner in the conservatory of the U.S. Botanic Garden. Chairman Greenspan spoke on the importance of the dual chartering system. Keynoting the dinner was Senator Jon Corzine (D-NJ), who serves on the Senate Banking Committee. He discussed the legislative response to Enron and the importance of reliable financial information to our economy.

Thursday morning, House Financial Services Committee Chairman Michael Oxley (R-Ohio) and Committee Ranking Member John J. LaFalce (D-NY) briefed the CSBS delegates on legislation now pending in the House. Delegates then met on the Senate side of Capitol Hill for a Senate Legislative Overview from key Senate Banking Committee staff Jonathan Miller and Wayne Abernathy.



Federal Reserve Board Chairman Alan Greenspan (R) and Commissioner Face at CSBS Legislative Committee Fly-In.

Rescission 101 (continued from page 1)

borrower's principal dwelling), a creditor must provide two copies of the notice of the right to rescind to each consumer entitled to rescind. "Consumer" means any person who has an ownership interest in the dwelling used as security on the loan. The notice must be a separate document that identifies the transaction and must clearly and conspicuously disclose 1) the retention or acquisition of a security interest; 2) the customer's right to rescind the transaction; 3) how to exercise the right to rescind, with a form to do so, and the creditor's address; 4) the effects of rescission, and 5) the date the rescission period expires. A model form that meets the requirements can be found in appendix H of Regulation Z.

When a consumer rescinds a transaction, any security interest giving rise to the right of rescission becomes void. In addition, the consumer cannot be required to pay any amount in the form of money or property either to the creditor or to a third party as part of the credit transaction. Any amounts of this nature already paid by the consumer must be refunded. "Any amount" includes finance charges already accrued as well as other charges such as broker fees, application and commitment fees, or fees for a title search or appraisal, whether paid to the creditor, paid directly to a third party, or passed on from the creditor to the third party.[1]

Contact your legal counsel with questions regarding this federal regulation. The Federal Trade Commission has enforcement authority over Regulation Z with respect to non-depository mortgage companies.

[1] Official Staff Commentary on Regulation Z §226.23 (d)

Take Note!

We continue to receive calls from licensees who have questions regarding the prohibition of collecting both a real estate commission and a mortgage broker fee on the same transaction. Please refer to the article titled "Clarification of July 1, 2001 Amendment to §6.1-422.C of the Code of Virginia" in the Summer 2001 issue of this newsletter for the Bureau's position and explanation. **PLEASE NOTE that referral fees are still prohibited by RESPA.**

New information concerning how to file a complaint is now available on our Web site. The information includes what to do if you have a complaint and who to contact regarding your complaint; and for those entities over whom the Bureau has authority, a form is provided. This information can be found at: http://www.state.va.us/scc/division/banking/complaint.htm.

The 2002 Edition of the Laws of Virginia Related to Non-Depository Financial Services will be mailed to all licensees sometime in September. The Stop Gap, which details any laws passed by the General Assembly this year that relate to entities regulated by the Bureau, will be available on our Web site (http://www.state.va.us/scc/division/banking/index.htm)by July 1, 2002.

Attention New Mortgage Licensees:

Friday, August 23, 2002 is the date of the next orientation for new mortgage lender and/or broker licensees. Companies licensed between April 1, 2002 and June 30, 2002 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!

License Update

The following is a list of companies that have surrendered their license, had their license revoked, had anapplication denied, or been fined by the Commission **since February 15, 2002**. This list should be helpful to keep track of companies with which you do business**. These lists are accurate as of May 15, 2002.** 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 – 635 Marilyn Swerdlow t/a Moneyline Mortgage Company – 2/25/02

MB – 1281 1st Continental Mortgage, Inc. – 2/28/02

MB – 1558 Robert Fox d/b/a East Coast Mortgage Bankers -- 3/3/02

MB -- 1168 Midas Mortgage, LLC – 3/4/02

MB – 1491 Creative Finance, Inc. – 3/5/02

ML – 428 OnePipeline.com, Inc. – 3/11/02

MB – 1483 Larry A. McCormick – 3/12/02

MB – 1688 Brian Edward Barnes d/b/a The Mortgage Shop – 3/14/02

MB – 1211 Willow Financial Services, Inc. -- 3/18/02

MB – 1065 Choice Mortgage Corporation – 3/20/02

ML – 441 Anvil Funding Corporation – 3/26/02

MB – 84 City Mortgage Corporation – 3/28/02

MB – 1603 Atlanta Mortgage Corporation – 4/16/02

MB – 1341 Community Financial Services, Inc. – 5/1/02

MB – 244 Virginia Mortgage Corporation – 5/5/02

MB – 619 Preferred Mortgage Services, Ltd. -- 5/7/02

MB --1115 Mortgage Service of Virginia, Inc. – 5/10/02

MB – 1337 William J. Henderson d/b/a Moneylink – 5/13/02

MB – 1074 Americorp Financial Services, Inc. – 5/13/02

Consumer Finance Surrenders:

Valley Finance Services, Inc. -- 12/31/01 (inadvertently omitted from previous issue) -- Harrisonburg (CF-161), Timberville (CF-732)

Regional Acceptance Corporation -- 3/23/02 -- Virginia Beach (CF-2292), Woodbridge (CF-2447), Newport News (CF-2294), Chesterfield County (CF-2295), Roanoke (CF-2311)

Denials:

MB – 1785 vanteq Mortgage Advisors, Inc. – 4/15/02

MB – 1871 GetLoans.com, Inc. – 4/18/02

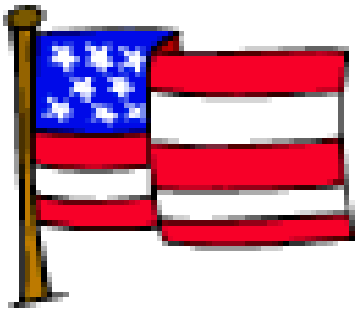
MB – 1645 Rainbow Vision, Inc. – 11/4/01 (inadvertently omitted from previous issue)

Revocations:

MB – 1020 Apple Tree Mortgage, Inc. – 5/10/02 – for failure to file annual report pursuant to §6.1-418 of the Code of Virginia

Penalties Paid:

Bingham Financial Services Corporation 3/20/02 – paid $1,000 settlement for failing to obtain approval prior to acquiring the stock of Dynex Financial, Inc. (now known as Origen Financial, Inc., ML – 252)



Bureau staff wish you and your family a very happy and safe Independence Day. The Commission will be closed on Thursday and Friday, July 4th and 5th in observance of the holiday.

State Corporation Commission
Bureau of Financial Institutions
P.O. Box 640
Richmond, Virginia 23218-0640

IMPORTANT REGULATORY INFORMATION ENCLOSED!

Summer 2002

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 nonprofit debt counseling agency 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, Virginia 23218-0640 or via e-mail at: nwalker@scc.state.va.us.

Special thanks to Susan Hancock, Melissa McCollum, Jane Owen and Todd Rose, for their contribution to this issue!

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Use of Preapproval Letters by Brokers

The Bureau of Financial Institutions has recently received several complaints in which brokers have issued "preapproval" letters to consumers who then proceed, in reliance upon such letters, to sign home purchase contracts only later to be denied a mortgage loan based on credit reasons. In a number of cases, there has not been a lender standing behind the issuance of these "preapproval" letters.

According to a final rule issued by the Federal Reserve Board this past February, a preapproval is a written commitment issued by a lender after a comprehensive analysis of the creditworthiness of the applicant (including such verification of income, resources, and other matters as is typically done as part of a normal credit evaluation program) which is conditioned solely upon (1) identification of a suitable property; (2) no material change in the applicant's financial condition or creditworthiness prior to closing; and (3) limitations not related to the financial condition or creditworthiness of the applicant that a lender ordinarily attaches to a traditional mortgage application (such as completion of a home inspection, an acceptable title insurance binder, certification of a clear termite inspection, etc.).

...continued on page 4

Document Preparation Fees:

The Bureau has recently received a number of questions regarding the collection of document preparation fees in connection with **first** mortgage loans.

Section 6.1-330.70 of the Code of Virginia permits a lender to "...require the borrower to pay the reasonable and necessary charges in connection with making the loan, including the cost of title examination, title insurance, recording and filing fees, taxes, insurance, including mortgage guaranty insurance, appraisal, credit reports, drawing of papers and closing the loan."

In the Virginia State Bar's UPL Opinion 112, it states it is the unauthorized practice of law for a mortgage company to make a separate charge for the preparation of instruments affecting title to real estate in connection with a

...continued on page 3

Mortgage Questionnaires Revised:

Please be aware that we've recently made some changes to the Officer's Questionnaire portion of the Mortgage Report of Examination. In addition to requiring a list of all branch offices, you will have to provide detailed answers to the following questions:

- How are branch managers compensated?
- Is compensation for branch managers based on the net profit of their branches?
- Are branch managers responsible for paying any of the expenses of the branch: e.g. rent, telephone, utilities, etc?
- Are branch managers required to issue a personal check to cover the operating expenses of their branches if funds are not available from an operating account?
- Are contracts with vendors such as leases, telephones, utilities, and advertising written in the name of the licensee or the branch manager?

You may also be asked to provide the Analyst with a copy of any branch agreements in force with your branch managers. Be prepared to provide this information during your next examination!

The 2002 Edition of the Laws of Virginia Related to Non-Depository Financial Services was mailed to all licensees around the first of September. One copy was mailed to the President of each licensee, to the mailing address on file with the Bureau. Companies licensed after that date will receive a copy of the law book when they attend the mortgage orientation (see article on page 4). You can also access the laws, regulations and administrative letters via our Web site at www.state.va.us/scc/division/banking.

IMPORTANT COMMISSION TELEPHONE NUMBERS

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

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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

All state offices will be closed on the following holidays:

Monday, October 14
Columbus Day

Monday, November 11
Veteran's Day

Thursday & Friday, November 28 & 29
Thanksgiving

Wednesday, December 25
Christmas

Document Preparation Fees

...continued from page 1

real estate mortgage closing. The opinion notes that §6.1-330.70 of the Code of Virginia "...directs that the company may require the borrower to pay expenses reasonably related to the transaction; however, the parties receiving payment must be restricted to those who are legally entitled to make such charge."

Additionally, the Regulation X (RESPA) §3500.12 prohibits the imposition of a charge for the preparation of the HUD-1 or HUD-1A, escrow account statements, or statements required by the Truth-in-Lending Act.

PLEASE NOTE: Document preparation fees are prohibited on subordinate mortgage loans, pursuant to §6.1-330.72 of the Code of Virginia.

New Staff Handling Complaints

The Bureau has hired two Senior Financial Analysts to handle consumer complaints for the Bureau of Financial Institutions.

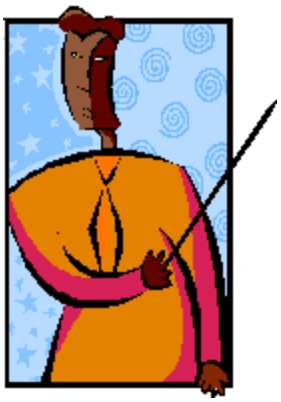
Melissa McCollum comes to the Bureau from Chesterfield County, VA where she was a Senior Tax Auditor. Her previous experience also includes positions as a Compliance Officer with Central Fidelity Bank, a Consumer Affairs Investigator with Virginia's Department of Agriculture and Consumer Services, and as an Associate National Bank Examiner with the Office of the Comptroller of the Currency.

Locke Trigg has actually worked for the Bureau since 1989 as a bank examiner, but has recently made the transition from the Banking Section to Consumer Complaints. Prior to joining the Bureau, he had 14 years of banking experience in various positions with several banks in the Richmond area as Assistant Credit Manager with Sovran Leasing, and Credit Analyst, Loan Interviewer and Dealer Credit Analyst with Bank of Virginia.

They both bring a wide range of experience in the Compliance Area. Melissa and Locke are committed to handling all complaints thoroughly and, with the help of all licensees, in a timely manner.

Attention New Mortgage Licensees:

Friday, November 15, 2002 is the date of the next orientation for new mortgage lender and/or broker licensees. Companies licensed between July 1, 2002 and September 30, 2002 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!



Frequently Asked Question:
(from 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 mortgage 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 name 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 forms for mortgage lender and broker licenses are available under the Application Forms section of the Web site (www.state.va.us/scc).

Preapproval Letters

...continued from page 1

The issuance of a preapproval letter implies that it is being issued by a lender who has rendered a credit decision and furnished a written commitment (subject to the limited conditions described above) to extend a home purchase loan up to a specified amount for a designated period of time. In the absence of a credit decision and written commitment from a lender, BFI would view the issuance of a preapproval letter by a broker as potentially misleading and/or deceptive. Furthermore, 10 VAC 5-160-20 states that "...no licensee shall . . . make false promises to induce an applicant to apply for a mortgage loan or to induce an applicant to enter into any commitment agreement or lock-in agreement or to induce an applicant to pay any commitment fee or lock-in fee in connection therewith." In addition, brokers are cautioned that this practice may be a violation of the Virginia Consumer Protection Act, § 59.1-196 et seq. of the Code of Virginia.

In contrast to a preapproval letter, brokers may provide consumers with prequalification letters without a binding commitment from a lender. According to the Federal Reserve Board, "...a prequalification request is a request by a prospective loan applicant (other than a request for preapproval) for a preliminary determination on whether the prospective loan applicant would *likely* qualify for credit under an institution's standards, or for a determination on the amount of credit for which the prospective applicant would *likely* qualify."

Brokers are encouraged to carefully review the terminology they use when communicating with consumers. As discussed above, "preapprovals" and "prequalifications" have very different standards and meanings. Therefore, these terms may not be used interchangeably.

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 May 15, 2002**. This list should be helpful to keep track of companies with which you do business**. These lists are accurate as of August 15, 2002.** 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 - 376 Dorsey Evans t/a Century Finance - 5/16/02
MLB - 373 Consultant's Mortgage Inc. (Used in VA by The Mortgage Consultants, Inc.) - 5/17/02
MLB - 232 Johnson Mortgage Company - 5/24/02 NOW LICENSED AS MLB - 792 JOHNSON MORTGAGE COMPANY, LLC
MB - 1345 Danny Ray Webb d/b/a Imperial Mortgage - 5/28/02
MLB - 652 AmeriSource Mortgage, LLC - 5/31/02
ML - 414 RBMG, Inc. - NOW EXEMPT - 6/6/02
MB - 1212 Garry L. O'Neill - 6/14/02
MB - 1604 Preferred Leads, Inc. - 6/15/02
MB - 930 Victory Mortgage, Inc. - 6/20/02
MB - 1729 Southwest Mortgage Company, LLC - 6/28/02
MB - 1196 Ivy K. Inocencio d/b/a Sunny View Mortgage Group - 07/01/02 NOW LICENSED AS MB - 1915 SUNNY VIEW MORTGAGE GROUP, LLC
MB - 1241 Ability Mortgage Funding, LLC - 7/1/02
MLB - 638 Mortgage Portfolio Services, Inc. - 7/15/02
ML - 315 Sebring Capital Corporation - 7/16/02
MLB - 726 Nation's Standard Mortgage Corp. - 8/14/02

Denials:

MB - 1786 Old Dominon Mortgage, LLC - 5/20/02
MB - 1870 Equity Solutions, Inc. - 5/20/02
MB - 1929 American Family Mortgage, Inc. - 8/12/02

Revocations:

MB - 559 American Mortgage Bankers, Inc. - 7/9/02 - for failure to maintain surety bond as required by §6.1-413 of the Code of Virginia

Penalties Paid:

MB - 841 Accent Mortgage Services, Inc. - 7/29/02 - paid $500 fine for failing to obtain approval prior to relocating an office, in violation of §6.1-416 of the Code of Virginia
MLB - 349 Home Loan Corporation - 8/2/02 - paid $1,000 fine for failing to obtain approval prior to relocating an office, in violation of §6.1-416 of the Code of Virginia

NOTE: A list of regulatory actions taken since 1995 (penalties paid, revocations, denials) is available on the Bureau's Web site at:
http://www.state.va.us/scc/division/banking/violate.htm.

State Corporation Commission
Bureau of Financial Institutions
P.O. Box 640
Richmond, Virginia 23218-0640

IMPORTANT REGULATORY INFORMATION ENCLOSED!

Fall 2002

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 toMelissa McCollum, Karen Sullivan, Bob Mednikov, Todd Rose and Susan Hancock for their contributions to this issue!

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Virginia Accepts Settlement with Household Finance; $16.7 Million Available for Restitution

The State Corporation Commission (SCC) has agreed to the terms of a settlement with Household International, Inc., that will return approximately $16.7 million to Virginia borrowers. The settlement amount is Virginia's portion of a national agreement to pay up to $484 million to consumers as restitution for alleged deceptive lending practices by the mortgage lender.

SCC's Commissioner of Financial Institutions E. Joseph Face, Jr., says the settlement is fair and reasonable to the more than 10,000 Virginians who were charged higher interest rates than promised, paid costly prepayment penalties, or may have been trapped in costly loans as a result of the company's practices.

Household International, Inc. (the parent company), Household Finance Corporation and Beneficial Financial Corporation are named in the settlement. The settlement applies to consumers who obtained real estate loans with one or more of these companies between January 1, 1999, and September 30, 2002.

The alleged deceptive lending practices began in 1999. Household, based in Prospect Heights, Illinois, has not admitted nor denied the allegations. The company has, however, changed its lending practices as a result of the settlement.

It is alleged that Household violated various laws and regulations governing mortgage loans. In many cases, borrowers' monthly payments jumped dramatically, and some consumers were put at risk of losing or did lose their homes.

Virginia borrowers must wait to apply for restitution until a settlement administrator is named. The administrator will make every effort to contact all affected borrowers. This effort is expected to begin in four to six months. At this time, the SCC's Bureau of Financial Institutions is unable to inform consumers whether they are included in the settlement or entitled to restitution.

Virginia's share of the restitution fund is proportional to Virginia's percentage of Household's total real estate secured dollar loan volume. Household originated more than $1 billion in real estate loans in Virginia between January 1999 and September 2002.

Appraisal Issue:

Frequently we receive calls from consumers as well as from licensees inquiring about laws that pertain to providing copies of appraisals.

Section 6.1-2.9 of the Code of Virginia requires lenders to *furnish free of charge* a copy of the appraisal to the borrower if the borrower has paid for the appraisal and has made a request for a copy. A lender must provide the copy within ten days of the borrower's request. In instances where no written appraisal exists, the lender must provide the borrower with a statement of the appraised value. The Bureau *strongly encourages* licensed mortgage brokers to voluntarily provide a copy of the appraisal in instances when the application is never sent to a lender, but the prospective borrower paid for the appraisal. To view the complete text of this statute, go to http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+6.1-2.9.

Face Elected Chair of State Financial Regulators Roundtable

At its December 9, 2002 meeting, Virginia Commissioner of Financial Institutions E. J. Face, Jr. was elected Chairman of the State Financial Regulators Roundtable (SFRR) for 2003. SFRR was started to provide a forum for communication, coordination, and cooperation among state regulatory associations in the promotion of effective state regulatory oversight of financial service providers. Mr. Face represents the Conference of State Bank Supervisors (CSBS) on the Roundtable. Members include CSBS, the National Association of State Credit Union Supervisors (NASCUS), the American Association of Residential Mortgage Regulators (AARMR), the American Council of State Savings Supervisors (ACSSS), the Money Transmitter Regulators Association (MTRA), the National Association of Consumer Credit Administrators (NACCA), the National Association of Insurance Commissioners (NAIC), and the North American Securities Administrators Association (NASAA). The roundtable meets quarterly and discusses a variety of issues, such as 1) pending/recent federal agency rulemakings that impact SFRR members and 2) recent "attacks" on the state financial regulatory system, including H.R. 5621, the GAO Study of the NCUA and Congressman Richard Baker's preemption effort of state securities authority. The next SFRR meeting is scheduled in Savannah, Georgia, on March 7, 2003. Expected issues to be discussed include AARMR's national license/registration program, the OCC's preemption and proposed nationwide predatory lending rule, and an update on state banking agencies' efforts to ensure compliance with Patriot Act rules.

Attention New Mortgage Licensees:

Friday, February 21, 2003 is the date of the next orientation for new mortgage licensees. Companies licensed between October 1, 2002 and December 31, 2002 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!

Surety Bond Claims:

Since January 1, 2002, the following surety bond claims were filed by the Bureau and paid to borrowers:

MLB - 575 First Financial Funding Group -- $1,595.00 claim paid on 3/13/02
-- license surrendered 11/6/00

MLB -- 390 Monument Mortgage Corporation -- $900 claim paid on 4/1/02
-- license revoked 10/30/01

MB -- 1383 Global Mortgage Corporation -- $10,000 claim paid on 9/17/02
-- license surrendered 3/21/00

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 August 15, 2002**. This list should be helpful to keep track of companies with which you do business. **These lists are accurate as of November 15, 2002**. 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 - 1800 America's Mortgage Center, Inc. – 8/31/02
MLB - 583 Fortress Mortgage, Inc. – 8/31/02
MB - 1588 American Equity Mortgage, Inc. – 9/5/02
MB - 1467 Millennium Financing, Inc. – 10/02/02
MB - 1640 Security One Mortgage Corporation – 10/7/02
MLB - 655 Fidelity First Lending, Inc. d/b/a Valley Pine Mortgage – 10/16/02
MLB - 201 GE Capital Mortgage Services, Inc. – 10/24/02
MLB - 744 UVEST Financial Services Group, Inc. d/b/a UVEST Mortgage Services – 11/4/02

Penalties Paid:

Morris E. Sampson -- 9/3/02 -- paid settlement of $1,000 for failing to obtain Commission approval prior to acquiring more than 25% of the stock of Kenwood Associates, Inc. (MLB - 243) in violation of Section 6.1-416.1 of the Code of Virginia

Edwin E. Hosier, Jr. -- 10/3/02 -- paid settlement of $1,000 for failing to obtain Commission approval prior to acquiring more than 25% of the stock of Concorde Acceptance Corporation (MLB - 796) in violation of Section 6.1-416.1 of the Code of Virginia

Gilbert J. Barteau -- 10/3/02 -- paid settlement of $1,000 for failing to obtain Commission approval prior to acquiring more than 25% of the stock of Concorde Acceptance Corporation (MLB - 796) in violation of Section 6.1-416.1 of the Code of Virginia

Fraud Warning:

Incidents of fraud in residential mortgage lending have increased greatly in recent years. The Bureau is very concerned about the increasing trend and is taking steps to increase our knowledge and investigative skills in this area. Members of Bureau staff are in contact with members of law enforcement agencies and other government agencies on the federal, state and local levels (FBI, HUD, HUD Office of Inspector General, Veteran's Administration, and police) to ensure those participating in mortgage fraud are held accountable.

Licensee's company policies, compensation and marketing plans should reflect a desire to prevent fraud from occurring. Owners, managers, loan officers and processors must get involved to make sure fraud is eliminated from the mortgage industry. A licensee's inaction to prevent fraud can have devastating consequences such as loss of investor support, loss of HUD/VA approval, demands for repurchase of mortgage loans, monetary fines by regulatory agencies, revocation of license and/or prosecution by law enforcement officials.

Information Available on the Web: www.state.va.us/scc

Have you been to the Bureau's Web site lately? If you haven't, you may be surprised at how much useful information is available at your fingertips! Be sure to visit our site and let all employees know where they can find this valuable information.

- Financial Institutions Laws, Regulations, Administrative Letters, and Regulatory Action Taken
- List of Licensed Mortgage Lenders and Brokers
- Application Forms
- Annual Report Forms
- Bureau Annual Reports
- Newsletters (all issues since March 1996)
- List of Licensed Payday Lenders
- Frequently Asked Questions
- How to file a complaint
- How to Contact the Bureau/Get Directions

Upcoming State Holidays:

Friday, January 17	Lee – Jackson Day
Monday, January 20	Martin Luther King Day
Monday, February 17	President's Day

Important Commission Telephone Numbers

Consumer Finance and Mortgage Examinations (804) 371-9701
Licensing (applications, name changes, annual reports) (804) 371-9690
Consumer Complaints (804) 371-9705
Banks and Savings Institutions (804) 371- 9704
Corporate Information - Clerk's Office (804) 371-9733
Bureau's FAX Number (804) 371-9416

Annual Report Due Dates Approaching:

Mortgage licensees must file the Annual Report in duplicate by March 1, 2003. For Consumer Finance licensees, the due date is April 1, 2003. The statutes which require the annual report do not provide for extensions for filing, but do allow the Commission to impose a fine against any licensee who fails to file in a timely manner.

Each report includes instructions for completing the forms, so please review them before completing the form. Here are some tips for completing and submitting the report:

- Make sure the report is complete, signed and notarized.
- Don't send money with the report. Assessments will be mailed out to mortgage licensees by April 25, 2003 and to consumer finance licensees by May 1, 2003. (Payments are due by May 25 and June 1 respectively.)
- For the mortgage report, don't include business that does not fall under the Mortgage Lender and Broker Act. (The Act covers Virginia loans made to individuals who will use the proceeds primarily for personal, family, or household purposes and the loan is secured by a deed of trust on any interest in one- to four-family residential, owner-occupied property located in the Commonwealth. It does not cover investment or commercial loans or loans made on non-Virginia property.)
- For the consumer finance report, include information that pertains to Virginia consumer finance business only.
- Make sure to include audited, consolidated financial statements of the licensee's operations that are not more than three months old, as well as audited financial statements for the parent companies of consumer finance licensees. If audited statements are not available by the deadline, send in the annual report and indicate on the report when the statements will be forwarded to the Bureau. If audited statements are not available, internal reports may be submitted.

If you have questions concerning the annual reports, please call the Bureau's Corporate Structure and Research Section at (804) 371-9690. You can obtain a copy of the annual report by visiting our Web site at : http://www.state.va.us/scc/division/banking/ar_forms.htm

think snow!

Bureau of Financial Institutions
1300 E. Main Street, Suite 800
Richmond, Virginia 23221

IMPORTANT REGULATORY INFORMATION ENCLOSED

Winter 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 nonprofit 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, Jane Owen and Andy Farmer for their contributions to this issue!

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Senate Bill 1103 Signed by Governor:

Senate Bill 1103 contains recommendations of the Virginia Housing Study Commission to strengthen consumer protection measures in the Mortgage Lender and Broker Act. The bill, signed by the Governor and effective July 1, 2003, amends the Mortgage Lender and Broker Act as follows:

§6.1-411 Persons exempt from chapter.
Reduces the number of loans a mortgage lender could make in any period of 12 consecutive months without a license from 10 to 3.

§6.1-422.1 "Flipping" prohibited
Subsection A: Clarifies the definition of flipping and provides factors that are to be considered when determining if a refinancing is in the borrower's best interest. The factors include, but are not limited to whether:
1) The borrower's new monthly payment is lower than the total of all monthly debt obligations being financed, considering the costs and fees;
2) There is a change in the amortization period of the new loan;
3) The borrower received cash in excess of the costs and fees of refinancing;
4) The borrower's note rate of interest is reduced;
5) There is a change from an adjustable- to a fixed-rate loan, taking into account

(continued on page 4)

SCC 1903 – 2003

Celebrating a Century of Service to the Commonwealth

The creation of the Virginia State Corporation Commission in the early years of the 20th century was a decisive shift in the organization of state government. Regulatory decision making moved from the legislature to a permanent body which could hire specialists and conduct inquiries. The SCC was organized as a separate department of state government with its own legislative, administrative and judicial powers. As the decades went by, the Commission was given increased regulatory authority over diverse business and economic interests. Because of its unique structure and duties, it has been described as the "fourth branch of government" and "the most powerful regulatory body in America."

In 1901 there was significant support for the creation of a regulatory body that could control railroad companies and fix rates to protect the people of Virginia. A. Caperton Braxton, chairman of the corporations committee at the constitutional convention in 1901 advocated the formation of a government organization with the authority to administer equal justice between two opposite interests.

(continued on page 5)

Surge in Application Filings:

In 2002, the Bureau experienced a significant increase in the number of applications for various certificates of authority and licenses. The total number of applications increased from 1,325 in 2001 to 2,429 in 2002 or by 83%.

According to Deputy Commissioner Nick Kyrus, the continuing expansion of the mortgage industry and the new regulation of payday lenders are responsible for the application surge. Mortgage lender/broker application filings increased from 1,111 in 2001 to 2,047 in 2002. (The majority of the applications have been for office relocations and additional offices.) In addition, the Bureau received 161 applications from payday lenders in the second half of 2002. At the end of 2002, the Bureau regulated 1,657 financial institutions and licensees.

The Bureau's Corporate Structure and Research Section is responsible for processing applications of both depository (banks, savings institutions and credit unions) and non-depository (mortgage lenders/brokers, consumer finance companies, nonprofit debt counseling agencies, industrial loan associations, payday lenders, check cashers and money order sellers/tranmitters). Depository institutions filed 112 applications while non-depository institutions filed 2,317 applications in 2002.

Despite the surge of application filings, the processing time has not increased.

BFI Licensees & Registrants

Type	# as of 12/31/02
Banks	93
Credit Unions	73
Savings Institutions	2
Trust Companies	8
Mortgage Lenders	113
Mortgage Brokers	696
Mortgage Lenders/Brokers	244
Consumer Finance	235
Payday Lenders	47
Check Cashers	74
Industrial Loan Assns.	7
Nonprofit Debt Counselors	24
Money Order Sellers/ Transmitters	41

The Soldiers' & Sailors' Civil Relief Act (SSCRA)

The Soldiers' and Sailors' Civil Relief Act of 1940 provides a wide range of protections for individuals entering or called to active duty in the military service. The SSCRA is intended to postpone or suspend certain *civil* obligations to enable service members to devote full attention to duty. Reservists and the members of the National Guard are protected by the SSCRA while on active duty. The protections generally begin on the date of entering active duty and generally terminate upon release from active duty.

The following are some of the most common and relevant provisions in the SSCRA that could affect companies licensed by the Bureau: installment contracts, maximum rates of interest, stay of proceedings, default judgments, insurance and taxation.

Licensees should consult with their attorney for more details on how this Act may affect their operations.

Attention New Mortgage Licensees:

Friday, May 16, 2003 is the date of the next orientation for new mortgage licensees. Companies licensed between January 1, 2003 and March 31, 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. Because space is limited, it is necessary to submit the registration form to the Bureau prior to the orientation date. 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 that have surrendered their licenses, had their licenses revoked, had an application denied, or been fined by the Commission since November 15, 2002. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of February 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 -- 1538 Bennie's Homes, Inc. d/b/a Colony Homes -- 11/19/02
MB -- 1803 Alambry Funding, LLC -- 12/11/02
MB -- 1046 Mortgage Lending Services, Inc. -- 12/18/02
MB -- 1867 Smith Mortgage Services, Inc. -- 12/20/02
MB -- 923 Frank T. Yoder Mortgage, Inc. -- 12/27/02
MB -- 1637 Stephanie Jean Oliver d/b/a Blue Ridge Mortgage Company -- 12/31/02
MB -- 1132 Fong Rowland Hua d/b/a Excel Mortgage & Investment Services (EMIS) -- 12/31/02
MLB -- 759 CIS Financial Services, Inc. -- 1/7/03
ML -- 488 Advance Mortgage -- 1/9/03
MLB -- 792 Johnson Mortgage Company, LLC -- 1/10/03 now exempt (wholly owned subsidiary of Union Bankshares Corporation)
MB -- 1912 Edward C. L. Holt d/b/a Cavalier Mortgage Group -- 1/13/03
ML -- 229 Aegis Mortgage Corporation d/b/a UC Lending -- 1/14/03
MB -- 1575 Richard B. Buffington, II d/b/a Diversified Mortgage Capital -- 1/27/03
MB -- 1331 Mortgage Solutions Corporation -- 2/10/03
ML -- 345 Amaximis Lending, Limited Partnership -- 2/10/03
MLB -- 831 ERA Mortgage Corporation -- 2/10/03 -- surrendered broker authority only now licensed as ML - 567
MLB -- 739 1st Metropolitan Mortgage Co.-- 2/11/03
MB -- 1365 First Liberty Financial Services, Inc. -- 2/14/03

Mortgage Applications Denied:

MB -- 1892 Nationwide Finance Corporation -- 12/16/02
MB -- 1858 Henri Jean-Baptiste -- 2/13/03

Mortgage Licenses Revoked:

MB -- 961 East Coast Funding, Inc. -- 12/23/02 -- for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia
ML -- 346 Community Home Mortgage Corporation -- 12/23/02 -- for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia
MB -- 1002 Coastal Mortgage Corp. of Virginia (used in VA by Coastal Mortgage Corp.) -- 2/4/03 -- for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia

Penalties Paid:

MLB -- 453 CBSK Financial Group, Inc. d/b/a Amerian Home Loans -- 12/19/02 -- paid settlement of $20,000 for various violations of the Mortgage Lender and Broker Act
ML -- 541 Ameritrust Mortgage Company, LLC -- 2/10/03 -- paid settlement of $1,000 for conducting business as a mortgage lender without a license, pursuant to §6.1-410 of the Mortgage Lender and Broker Act

Senate Bill 1103 (continued from page 1)

the costs and fees; or

6) The refinancing is necessary to respond to a bona fide personal need or an order of a court.

Subsection B: Adds brokers to the prohibition so that it now states "no mortgage lender or broker shall knowingly or intentionally engage in the act or practice of "flipping" a mortgage loan."

§6.1-425.1 Suspension

Subsection A: Provides the Commission authority (after providing notice and an opportunity for a hearing) to censure, suspend (for a defined period of time), or bar a person from any position of employment, management, or control of any licensee if it is found that :

1) The censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of the Mortgage Lender and Broker Act, or any rule, regulation or order of the Commissioner; or
2) The person has either (i) been convicted of, or pled guilty or nolo contendere to, any crime, or (ii) held liable in any civil action by final judgment or administrative judgment by any public agency, and the criminal, civil or administrative judgment involves an offense reasonably related to the qualifications, functions or duties of a person engaged in the mortgage lender or broker business.

Subsection B: Prohibits persons suspended or barred from participating in any business activity of a licensee and from engaging in any activity at the location where a licensee conducts its business.

Subsection C: §6.1-425.1 applies to any violation, conviction, plea or judgment after July 1, 2003.

§6.1-425.2 Filing written report with Commissioner; events impacting activities of licensee

Within 15 days of becoming aware of the occurrence of any of the following events, a licensee must file a written report with the Commissioner describing the event and its the expected impact on the activities of the licensee:

1) Filing for bankruptcy or reorganization by the licensee;
2) Institution of revocation or suspension proceedings against the licensee by any state or governmental authority;
3) Denial of the opportunity to engage in business by any state or governmental agency;
4) Any felony indictment of the licensee or any of its employees, officers, directors or principals;
5) Any felony conviction of the licensee or any of its employees, officers, directors or principals;
6) Such other events that the Commissioner may determine and identify by rule.

The complete bill can be viewed by entering the bill number (SB1003) at::

http://leg1.state.va.us/031.bil.htm

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

BFI FAX Number.....(804) 371-9416

SCC's Century of Service (continued from page 1)

The 1902 constitution authorized the appointment of three commissioners by the Governor and confirmed by the General Assembly for the regulation of transportation and transmission companies. Instead of applying the accepted doctrine of the separation of powers in government, the framers of the constitution authorized an organization with its own legislative, administrative and judicial powers. The Commission could make its own rules and enforce them. No state court except the Virginia Supreme Court could review or reverse any of its rulings.

When the General Assembly convened in January 1903, the legislature provided $500 for the Commission to prepare offices and authorized it to hire a clerk, a first assistant clerk, a bailiff and a stenographer "who shall also have a typewriter."

In its first year of service, the Commission reported that it granted 482 charters for corporations and generated $488,271 in revenue for the Commonwealth while spending a budget of under $24,000. Processing consumer complaints was a significant Commission activity from the very beginning, the SCC reported. "A very large number of complaints against railroads were informally brought to the attention of the Commission…and all...were promptly taken up by the Commission and proper relief given in all cases in which the complaints were just [sic] founded."

Within three years, the Commission's regulatory authority was broadened by the General Assembly with the creation of the Bureau of Insurance. That same year, the SCC was also authorized to investigate cases of suspected arson. The regulation of banking was added in 1910, and fixing the rates of public utilities began in 1914. The supervision of the sale of securities (Blue Sky Law) started in 1918 and the regulation of transportation by motor vehicle began in 1923.

Since the beginning of the Commission, the legislature has approved more than 60 expansions of SCC authority. Some of the unusual areas of authority were the licensing of dams, the registration of laundry marks, the regulation of parachute jumping, and the regulation of sight-seeing and charter party boats. The Commission even had control over the tolls charged on Richmond's Boulevard Bridge. Built in 1925 by a development company, the bridge was privately owned until 1969. When the owners wanted to reduce the toll from a dime to a nickel, they had to seek the permission of the SCC. In a 1975 *Richmond Times-Dispatch* series on the SCC, former Commissioner H. Lester Hooker was asked why the General Assembly continued to hand the regulatory agency new responsibilities. "Well, you know," he replied, "anything they didn't know what to do with, they'd give to the SCC." Former Wisconsin Public Service Commissioner Arthur L. Padrutt, testifying to a legislative panel in the 1970's, offered a summary of the SCC and its activities: "One can view it only with a sense of fatigue."

With its impact on so many business and economic interests in Virginia, the SCC confronted its share of controversy in its first century. During the first decade, there were continual disputes between shippers and railroads. In 1918, the SCC was criticized by one of its own commissioners for having an inadequate staff for complex regulatory tasks, a criticism that reflects a persistent challenge for the Commission. As new problems arose with new industries, there was a need for new regulations, and the Commission was given more authority. Controversy was often followed by a period of stability.

Despite the dramatic industrial, social and demographic transformation in Virginia, the foundation of the State Corporation Commission has not changed since the first three commissioners took the oath of office on March 2, 1903. It remains an independent department of state government that promotes and protects the public interest. It continues to be vested with legislative, administrative and judicial authority. No other state in the country consolidates so many regulatory functions into one organization. While always open to adapting to change, the stability of the SCC provides an opportunity for all to be heard on any matter,within the Commission's authority, and to do so in a timely manner. Its tasks may be highly technical in nature, but the SCC has maintained a simple structure to meet the demands of an evolving regulatory environment.

*The above article was taken in part from: The Virginia State Corporation Commission 1903 - 2003 Celebrating a Century of Service to the Commonwealth, by Andrew Farmer, Education Resource Manager, State Corporation Commission.

Bureau of Financial Institutions
1300 E. Main Street, Suite 800
Richmond, Virginia 23221

IMPORTANT REGULATORY INFORMATION ENCLOSED

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.

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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.

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!

Summer 2003

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, 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 Mike Beane, Susan Hancock, Melissa McCollum, Jane Owen and Rob Wirt for their contributions to this issue!

Number of Lock-in Complaints Soar!

The Bureau is experiencing a large increase in complaints, mainly involving customers who lost their locked-in interest rates. We understand that the large number of consumers entering the purchase and refinance market has drastically increased the time it takes to process and close loans; however, licensees should be able to anticipate market conditions that may affect their ability to close the loan at the locked-in terms.

The Bureau of Financial Institutions, by regulation (10 VAC 5-160-10), defines a lock-in agreement as "a written agreement between a mortgage lender and an applicant for a mortgage loan which establishes and sets an interest rate and the points to be charged in connection with a mortgage loan that is closed within the time period specified." 10 VAC 5-160-30 also requires the inclusion of the following information in the lock-in agreement: information about any adjustable rate feature of the loan (such as the index and margin); the amount of any lock-in fee and the time within which the fee must be paid; the length of the lock-in period; a statement that if the loan is not closed within the lock-in period, the lender is no longer obligated by the agreement, and the terms under which a lock-in fee will be refunded; a statement that any terms not locked in by the lock-in agreement are subject to change until the loan is closed; and any other terms and conditions of the lock-in agreement required by the lender.

(continued on page 4)

Mortgage Q & A

Here are some of the most frequently asked questions of Bureau staff. Do you know the answers?

Question: Is the broker allowed to charge the applicant a fee if the applicant does not continue with the loan after the processing work is completed and a commitment from the lender is given?

Answer: Virginia law states that a mortgage broker is prohibited from receiving compensation (except for documented costs of a credit report and appraisal) "…until a written commitment to make a mortgage loan is given to the borrower by a mortgage lender." The Bureau construes this language in the strictest sense so potential borrowers are protected. The Bureau's position is that brokers are entitled to compensation under §6.1-422B(1) only after the borrower (not the broker) receives a commitment (in writing) from the lender to make the loan. Virginia Regulation 10 VAC 5-160-10 defines a commitment agreement as a "commitment accepted by an applicant for a mortgage loan, as evidenced by the applicant's signature thereon." A commitment is defined as a "written offer to make a mortgage loan signed by a

(continued on page 3)

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Failure to Specify Fees Results in Refunds to Borrowers

Mortgage brokers who choose to utilize the National Association of Mortgage Broker's Model Loan Origination Agreement to comply with §6.1-422B(4) of the Code of Virginia must be sure to add the specific amount of the broker fee(s) that will be collected directly from the borrower. The above-referenced Code section prohibits mortgage brokers from receiving compensation unless it is specified in a written agreement signed by the borrower. The model form does not contain a space to disclose the broker's specific charges.

Brokers who use the NAMB form without adapting the form to include the specific amount of the broker fee(s) have been cited in examination reports for violating §6.1-422B(4) of the Code of Virginia and have made refunds to affected borrowers.

Numerous violations continue to be found where mortgage broker agreements (contract for compensation) are not being entered into in accordance with §6.1-422B(4) of the Code of Virginia. In many instances a broker agreement is provided to the borrower but does not specify the fee(s) charged by the broker to the borrower. When violations of this type are cited, the Bureau requires the the broker to refund the fees collected.

Attention New Mortgage Licensees:

Friday, November 14, 2003 is the date of the next orientation for new mortgage licensees. Companies that are licensed between July 1, 2003 and September 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!

Right of Rescission 101

(This article initially appeared in the Spring 2002 issue)

The Bureau has recently received several inquiries concerning a consumer's right to rescind a mortgage transaction. Federal Regulation Z (the Truth in Lending Act) allows consumers who are refinancing the loan on their principal dwelling to change their mind and rescind the refinance transaction.

In a transaction subject to rescission, a creditor must provide two copies of the notice of the right to rescind to each consumer entitled to rescind. "Consumer" means any person who has an ownership interest in the dwelling used as security on the loan. The notice must be a separate document that identifies the transaction, and must clearly and conspicuously disclose 1) the retention or acquisition of a security interest; 2) the customer's right to rescind the transaction; 3) how to exercise the right to rescind, with a form to do so, and the creditor's address; 4) the effects of rescission; and 5) the date the rescission period expires. A model form that meets the requirements can be found in appendix H of Regulation Z.

When a consumer rescinds a transaction, any security interest giving rise to the right of rescission becomes void. In addition, the consumer cannot be required to pay any amount in the form of money or property either to the creditor or to a third party as part of the credit transaction. Any amounts of this nature already paid by the consumer must be refunded. "Any amount" includes finance charges already accrued as well as other charges such as broker fees, application and commitment fees, or fees for a title search or appraisal, whether paid to the creditor, paid directly to a third party, or passed on from the creditor to the third party.[1]

Contact your legal counsel with questions regarding this federal regulation.

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[1] Official Staff Commentary on Regulation Z §226.23 (d)

Household/Beneficial Settlement

Virginia consumers who obtained real estate secured loans from subsidiaries of Household International, Inc. between January 1, 1999 and September 30, 2002 were mailed a letter and information packet from Commissioner of Financial Institutions E.J. Face, Jr. and Attorney General Kilgore in August. These materials informed affected consumers of the minimum amount they are eligible to receive if they choose to participate in the settlement.

Consumers who have questions about the settlement payment procedures can contact the settlement administrator toll free at 1-888-780-2156 or by visiting the administrator's web site www.household-beneficial-settlement.com. Additional information about the settlement is also available on the SCC Bureau of Financial Institutions' web site at http://www.state.va.us/scc/division/banking/householdsettlement.

Mortgage Q & A (continued from page 1)

mortgage lender, or by another person authorized to sign such instruments on behalf of a mortgage lender." 10 VAC 5-160-30 further specifies items that must be included in the commitment agreement such as an identification of the property, the principal amount of the loan, interest rate, term, etc.. A preapproval from a lender does not constitute a commitment agreement.

Question: What documents should I keep in my mortgage loan files?

Answer: The short answer? Everything! Section 6.1-417 of the Code of Virginia requires any licensee under the Mortgage Lender and Broker Act to "…maintain in its licensed offices such books, accounts and records as the Commission may reasonably require in order to determine whether such lender or broker is complying with the provisions of this chapter…." The Code also refers to several specific documents that must be retained in its licensed offices as well as "...such other papers or records relating to the loan as may be required by rule or regulation." Some licensees call the Bureau to find out if they can strip their files of unnecessary documents, mainly to save storage space. The Bureau warns licensees that keeping skeleton files could cause problems down the line if the Bureau is asked to investigate allegations of fraud or a consumer complaint. If you have limited documents in your file, it may be difficult to prove that you did everything correctly. We recommend that licensees keep all documents that relate to the loan file.

Question: The examiners came to do my examination, but didn't call ahead of time to make an appointment. Can they just come by unannounced?

Answer: Yes. Examiners are allowed to arrive to conduct an examination without first making an appointment. The Bureau's current position is that examiners should use their judgment when deciding whether to contact the company in advance of their arrival; however, examiners are given some leeway in making this decision. There are instances when it is prudent to call ahead to ensure that the appropriate person is available to aid with the examination. Section 6.1-419 of the Code of Virginia allows the Commission's designated employees to conduct, as often as it deems necessary, an examination of the affairs, business, premises and records of any lender or broker required to be licensed under the Mortgage Lender and Broker Act. The Bureau is required to conduct an examination at least once in each three-year period. Examinations may be conducted more often, especially if the compliance history of the licensee warrants more frequent review. The owners, members, officers, directors, partners and employees of the licensee being examined must, upon demand, afford full access to all premises, books, records and information the examiner deems necessary. Refusal to permit the Commission to conduct an investigation or examination of a licensee is grounds for suspension or revocation of the license issued by the Commission (§6.1-425 of the Code of Virginia).

Complaints (continued from page 1)

Several consumers have indicated to the Bureau that they learned from their lender that the broker, while having represented that the loan was locked-in, never actually locked in the promised terms with the lender. If a broker represents to the borrower that their loan is locked-in with a lender, it must be supported by documentation from the lender specifying the terms locked-in.

Another situation that the Bureau is aware of is when a broker received a lock-in confirmation from a lender and the expiration date of the lock-in listed on the confirmation was ***prior*** to the estimated date of closing. Based on the lock-in confirmation from the lender, the broker should have been aware up front that the lender did not expect the loan to close within the lock-in period and at the locked-in rate; however, the broker did not notify the applicant of this until closing. Had the applicant been told up front, he/she would have had an opportunity to check into other options.

In times of heavy application volume, licensees should develop procedures and inform staff of the pitfalls of a fluctuating interest rate market. Lenders and brokers need to educate the applicants about the loan process and comply with 10 VAC 5-160-20. In particular, brokers should not misrepresent that loan terms are locked-in when the broker has not actually locked-in the rate/points with a lender.

Spring Meeting of Jump$tart Coalition Held:

The Jump$tart Coalition for Personal Financial Literacy held its' Spring luncheon and meeting on Thursday, April 3, 2003. The meeting's purpose was to celebrate April as Financial Literacy for Youth Month and draw attention to the need for personal finance education among young adults. The event boasted record attendance and was held in the ballroom of the Washington Grand Hyatt. The keynote speaker was Federal Reserve Chairman Alan Greenspan. Many special guests were in attendance, including Ms. Judith J. Chapa, Deputy Assistant Secretary of Financial Education, U.S. Treasury and Ms. Cynthia A. Glassman, Commissioner, U.S. Securities and Exchange Commission. Commissioner of the Virginia Bureau of Financial Institutions Joe Face represented state regulators on the Jump$tart Coalition.

Left to Right: E. J. Face, Jr., Dara Duguay, Randy Lively, Alan Greenspan, ING Direct CEO Arkad Kuhlmann, Nancy I. Brown, Don Blandin

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 May 15, 2003. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of August 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 – 1932 Trusted Advisors Mortgage LLC – 6/1/03
MB – 1875 Robert Musseman d/b/a Potomac Mortgage Bank – 6/5/03
MB-1840 Financial Consulting Corporation d/b/a Loan Processing Center – 6/9/03
MLB – 693 Business Mortgage, Inc. – 7/18/03
MB – 799 Rayner Mortgage Company t/a Churchill Mortgage Company – 7/29/03 – NOW LICENSED AS MB – 2137 CHURCHILL MORTGAGE COMPANY
MLB – 875 Nassau Mortgage LLC – 8/1/03
MLB – 813 Lumina Mortgage Company, Inc. – 8/1/03
MB – 1438 C & P Financial Consulting, Inc. d/b/a C & P Mortgage Company – 8/15/03

Mortgage Denials:

MB – 2117 Grow International, Inc. – 8/13/03

Mortgage Revocations:

MB – 1308 Innovation Funding, Inc. – 6/4/03 – for failure to file the annual report as required by §6.1-418 of the Code of Virginia
MB – 1772 RLI Mortgage Services, LLC – 6/4/03 – for failure to file the annual report as required by §6.1-418 of the Code of Virginia
MB-1452 Infinity Mortgage Company, Inc. (Boston) Used in VA by Infinity Mortgage Company, Inc. – 6/4/03 – for failure to file the annual report as required by §6.1-418 of the Code of Virginia
MB – 1321 Olympic Mortgage Group, Inc. – 6/4/03 – for failure to file the annual report as required by §6.1-418 of the Code of Virginia
ML – 88 Relocation Financial Services, Inc. – 8/15/03 – for failure to continuously maintain the surety bond as required by §6.1-413 of the Code of Virginia

Penalties Paid:

Accent Management Group, LLC — 6/4/03 — paid a settlement of $2,000 for failing to obtain Commission approval prior to acquiring more than 25% of the stock of Accent Mortgage Services, Inc. (MB-841), in violation of §6.1-416.1 of the Code of Virginia.
Deidre A. Connor, — 6/4/03 -- paid a settlement of $500 for failing to obtain Commission approval prior to acquiring more than 25% of the stock of Carnegie Financial Group d/b/a Capital Investment Group (MB-1844), in violation of §6.1-416.1 of the Code of Virginia
Farbod Smith Zohouri — 6/20/03 — paid a settlement of $1,000 for failing to obtain Commission approval prior to acquiring more than 25% of the stock of ZNet Financial, LLC (MLB-856), in violation of §6.1-416.1 of the Code of Virginia

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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!

Fall 2003

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, 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, George Latham, Nick Kyrus, Melissa McCollum, Jon Orne, Jane Owen, Todd Rose and Karen Sullivan for their contributions to this issue!

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Financial Information Safeguards Rule

Have you developed a comprehensive security program to ensure the security and confidentiality of customer information? If not, you may be in violation of the Federal Trade Commission's (FTC's) Safeguards Rule, which went into effect May 23, 2003.

Financial institutions covered by the Safeguards Rule include companies that broker, make or service consumer loans, transfer or safeguard money, prepare individual tax returns, provide financial advice or credit counseling, provide residential real estate settlement services, and/or collect consumer debts. Such companies must comply with the Rule.

According to the FTC's May 23, 2003 press release, financial institutions subject to the Safeguards Rule must implement an information security program as follows:

- Designate an employee or employees to coordinate the program;
- Identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information and assess the sufficiency of any safeguards in place to control the risks;
- Design and implement safeguards to address the risks and monitor the effectiveness of these safeguards;
- Select and retain service providers that are capable of maintaining appropriate safeguards for the information and require them, by contract, to implement and maintain such safeguards; and

(continued on page 3)

Did you know…

- …**there is a new statute that requires mortgage licensees to send written notification to the Commissioner if certain events occur?** Events that require notification include: filing for bankruptcy or reorganization by the licensee; institution of revocation or suspension proceedings against the licensee by any state or governmental authority; denial to engage in business by any state or governmental authority; and any felony indictment or conviction of the licensee or any of its employees, officers, directors or principals. The Commissioner may identify by rule other events that will require notification. Reference §6.1-425.2 of the Code of Virginia.

- **…it is the Bureau's position that third-party processors and telemarketers fall under Virginia's definition of *mortgage broker* and must be licensed as such unless they are exempt from licensing under §6.1-410 or §6.1-411 of the Code of Virginia?** This position was discussed in previous newsletter articles (April 1999 and June 1996) titled "Intermediate Mortgage Activities." These intermediate activities include any activity that may facilitate bringing a potential mortgage borrower together with a mortgage lender for compensation which includes processing and telemarketing. These activities involve "dealing with" or "managing" part of the mortgage loan process. Processing leads to the completion of documentation and underwriting requirements and facilitates the making of mortgage loans. Telemarketing directs a potential borrower to a mortgage lender or broker. You may obtain application forms from our Web site (www.state.va.us/scc/division/banking) or contact the Bureau's Licensing Section at (804) 371-9690 if you have questions about the application requirements or process.

- … if mortgage brokers image loan files for storage, the ***original*** broker agreement must be retained in a licensed office in order to comply with §6.1-417 of the Code of Virginia?

Recent Payoff Complaints:

Once again, we are receiving an increased number of complaints concerning difficulties in receiving payoff information from lenders. The complainants state some lenders are not responding to written payoff requests made by the property owner's designee (i.e.: attorney, or mortgage lender or broker with whom they have filed a loan application). Such lenders are claiming the payoff request must come from the property owner. Other complaints revolve around the lender's refusal to accept a faxed written request. It is the Bureau's view that a faxed request for loan payoff information is a "written request" within the meaning of §6.1-330.82 of the Code of Virginia.

The above referenced section requires the holder of the note secured by a deed of trust or mortgage on Virginia property to mail or deliver a written statement of the payoff amount **within 10 business days** of the receipt of a written request from the property owner **or his designee** (provided the request contains the loan number and address or other description of the subject property). Such request for payoff information may be made one time within a 12-month period **without charge**, and a fee **not to exceed $15** may be charged for each additional request within such period.

Photocopying Driver's Licenses: Follow the Law

Recently, Bureau examiners have found that some licensees have been photocopying driver's licenses. Many financial institutions use driver's licenses as a form of identification. While driver's licenses can help to identify an individual, the Code of Virginia prohibits reproduction of driver's licenses without prior written permission from the Department of Motor Vehicles (DMV).

Section 46.2-346A (4) of the Code of Virginia states that no person shall "Reproduce by photograph or otherwise, any driver's license, temporary driver's permit, or learner's permit issued by the [DMV] without obtaining prior written consent of the [DMV]." DMV staff advised the Bureau that based on the current statutory language covering this requirement, every licensee (not each branch) must apply for permission to photocopy driver's licenses.

Licensees may apply for permission by writing to Commissioner D.B. Smit, Virginia Department of Motor Vehicles, P.O. Box 27412, Richmond, Virginia 23269-0001, Attention: Pat Deluke.

Safeguards Rule (continued from page 1)

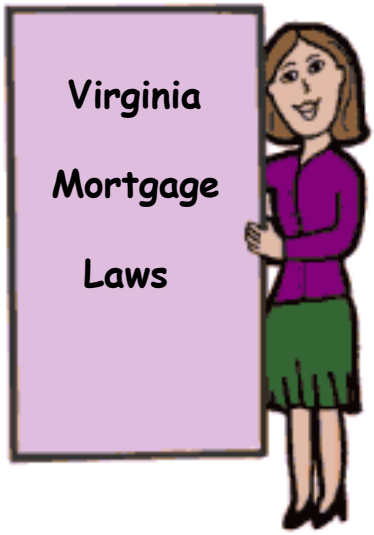
- Adjust the information security program in light of developments that may materially affect the program.

Each information security program must include these basic components; however; companies are allowed to select specific safeguards that are appropriate to their size and complexity, the nature and scope of their operations, and the sensitivity of the customer information maintained.

Check out the FTC's Web site (www.ftc.gov) to find more information about the Safeguards Rule and tips on developing your information security program.

Attention New Mortgage Licensees:

Friday, February 20, 2004 is the date of the next orientation for new mortgage lender and/or broker licensees. Companies that are licensed between October 1, 2003 and December 31, 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!



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

Annual Reports Due:

Mortgage lenders and/or brokers and consumer finance companies licensed by the Bureau of Financial Institutions are each required to file an Annual Report with the Bureau. These reports pertain to the business conducted and should not be confused with the corporate annual report (filed with the Office of the Clerk) required of companies. The annual report forms were mailed to licensees in December 2003; however, copies of each type of annual report form are also available on the Bureau's Web site at: www.state.va.us/scc/division/banking/vareport.htm.

The due dates for the annual reports are as follows: Mortgage Annual Report - due by March 1, 2004; Consumer Finance Annual Report - due by April 1, 2004

Common tips for filing annual reports:

1) Strictly follow the instructions for each report. If you need assistance, call the individuals listed below.
2) File the report in duplicate.
3) Make sure the report is complete, signed by a senior officer of the licensee, and notarized.
4) Do not send money with the report. Assessments will be mailed to mortgage licensees by April 25, 2004 and to consumer finance licensees by May 1, 2004, with payment due within 30 days afterward.
5) Do not report business that is not conducted pursuant to the license granted, unless specifically requested. (For example, mortgage licensees should report only loans made to individuals who will use the proceeds primarily for personal, family, or household purposes and which loans are secured by the deed of trust on any interest in one- to four-family, residential, owner-occupied property located in the Commonwealth).
6) Attach a financial report (audited, if available) for the licensee, including a balance sheet and income statement. (Each consumer finance licensee should also include a financial report, audited if available, for its parent company.) If audited reports are not available by the deadline, indicate with the submission of the annual report the date that the audited financial statement is expected to be filed.
7) Submit the report to the Bureau by the deadline. The statutes governing the filing of the reports do not provide for extensions of time. Failure to file the annual report by the due date may result in regulatory action (fines or revocation of license).

Annual reports are processed by the Bureau's Corporate Structure and Research Section. For questions regarding annual reports filed by mortgage companies, contact Robert Mednikov at (804) 371-9692; for questions regarding annual reports filed by consumer finance companies, contact Karen Sullivan at (804) 371-9372. General questions may also be directed to (804) 371-9690.

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 August 15, 2003. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of November 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 www.state.va.us/scc/division/banking/vamortgagelist. Also available on the Web site is a list of regulatory actions taken by the Commission since 1995 (penalties paid, license revocations, application denials). This information may be found at: www.state.va.us/scc/division/banking/violate.

Mortgage License Surrenders:

MB – 1438 C & P Financial Consulting, Inc. d/b/a C & P Mortgage Company – 8/15/03
MB – 2021 Semere Ambaye d/b/a H & R Mortgage & Financial Services – 8/20/03
ML – 226 HomeGold, Inc. – 8/22/03
MB – 1944 Ace Mortgage, Inc. – 9/9/03
MB – 1297 Nelson D. Rodgers t/a All Virginia Mortgage Co. – 9/15/03
ML – 440 Oxford Capital, LLC – 9/15/03
MB – 831 Joseph Christopher Nassief d/b/a The Mortgage Exchange Service – 9/16/03
MB – 1725 Erie Financial Group, LTD – 10/6/03
MLB – 827 BLS Funding Corp. – 10/7/03
MB – 1282 Star City Mortgage, Inc. – 10/23/03
MB – 1746 Michael C. Miller – 10/28/03
MLB – 761 Best Mortgage and Financial Services, Inc. – SURRENDERED LENDER AUTHORITY ONLY 10/29/03 – NOW LICENSED AS MB — 2381

Mortgage Revocations:

ML – 88 Relocation Financial Services, Inc. – 8/15/03 – for failure to continuously maintain surety bond pursuant to §6.1- 413 of the Code of Virginia

Penalties Paid:

MLB – 311 American Home Finance, Inc. – 10/8/03 – paid settlement of $15,000 for various violations of the Mortgage Lender and Broker Act
MB – 1407 Beacon Home Mortgage, LLC – 10/20/03 – paid settlement of $2,500 for failure to timely respond to a Bureau request, as required by Regulation 10 VAC 5-160-50 of the Virginia Administrative Code
Thomas Yost, Sr. – 11/20/03 – paid settlement of $1,000 for failing to obtain Commission approval prior to acquiring more than 25% of the stock of Calvert Mortgage Corporation, LLC (MB – 1369), in violation of §6.1-416.1 of the Code of Virginia

The following licensees paid settlements of $500 for failure to file the annual report by March 1, 2003, as required by §6.1-418 of the Code of Virginia:

MLB – 678 Americorp Credit Corporation – 11/20/03
MB – 1407 Beacon Home Mortgage LLC – 11/20/03
MB – 882 First American Mortgage Services, Inc. – 11/20/03
MB – 1602 First Virginia Carolina Mortgage, Inc. – 11/20/03
MB – 548 Metfund Mortgage Corporation – 8/12/03
MB – 751 Pumphrey Financial Group, Inc. d/b/a American Mortgage Services, a division of Pumphrey Financial Group, Inc. – 11/20/03
MB – 1406 Skyline Mortgage Group, LC – 11/20/03
MB – 1797 Wholesale Express Mortgage Corporation, Inc. – 11/20/03

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

IMPORTANT REGULATORY INFORMATION ENCLOSED!

Winter 2004

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, 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, Jon Orne, Jane Owen and Karen Sullivan for their contributions to this issue!

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Clarification of Prepayment Penalty Limits

The Commissioner recently issued Administrative Letter 1610 to provide information about the Bureau's ability to enforce Virginia's legal limitations on prepayment penalties. Below is the text from this Administrative Letter. (It is also available on the Bureau's Web site at http://www.state.va.us/scc/division/banking/news/admin_lets.pdf) If you would like to read the previous articles relating to the injunction filed against the Bureau, review the April 1999, October 1999 and Winter 2001 issues of The Compliance Connection, which are also available on the Bureau's Web site (http://www.state.va.us/scc/division/banking/complnc.htm).

Administrative Letter BFI-AL-1610
Prepayment Penalties in Alternative Mortgage Transactions

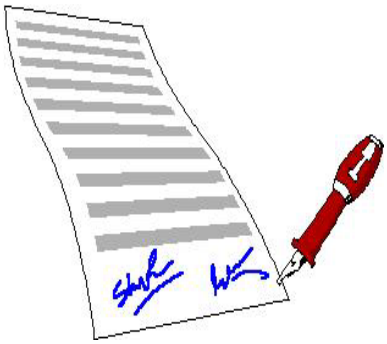
Prior to December 18, 2003, the Bureau was subject to an injunction entered by the United States District Court for the Eastern District of Virginia, Richmond Division. That injunction barred the Bureau from enforcing Virginia law limits on prepayment penalties in "alternative mortgage transactions" (AMTs) entered into by non-depository housing creditors. On December 18, 2003, the parties to the case in which the injunction was issued appeared before the Court to be heard on certain motions.

After argument the Court ruled that the Bureau was not barred from enforcing Virginia law prepayment penalty limits with respect to AMTs entered into on or after July 1, 2003, the effective date of revised regulations of the Office of Thrift Supervision. Therefore, the Bureau will resume enforcement of those laws in connection with AMTs closed on or after July 1, 2003 by mortgage lenders licensed under the Virginia Mortgage Lender and Broker Act.

Issued by the Commissioner of Financial Institutions on February 18, 2004
Reference: §§6.1-330.83 and 6.1-330.85 of the Code of Virginia

"Refer a Friend" Program Leads to HUD Settlement

The Department of Housing and Urban Development initiated an investigation of a branch manager of a mortgage company for his use of a "Refer a Friend" program. Under this program, former clients who sent referrals to the branch were entered into a raffle and given a chance to win tickets to sporting events, theatre productions and other prizes. One winner per month was announced in a newsletter distributed by the branch manager.



According to the February 29, 2004 Settlement Agreement posted on HUD's Web site, HUD believes the branch manager's "Refer a Friend" program violated Section 8 of RESPA in two ways: 1) the branch manager gave the monthly raffle winners things of value for referring business and 2) the branch manager gave non-winners the chance of winning through the opportunity to participate in a contest that awarded things of value which, in itself, is a thing of value. The branch manager also sold materials that instructed loan officers to pay referrals fees for the referral of settlement service business.

Section 8a of the Real Estate Settlement Procedures Act of 1974 (RESPA), 12 USA §2607(a) states that "[n]o person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person."

The branch manager cooperated with HUD and complied with requests made by HUD during the investigation. The parties agree that entering into the Settlement Agreement does not constitute an admission of liability or wrongdoing on the branch manager's part. The branch manager agreed to abide by the requirements of RESPA, its implementing regulations, and other applicable laws; pay a monetary settlement; send a notice to each person who purchased his promotional materials; and agreed that if he fails to comply with any of the terms of the Settlement he will pay damages of $20,000 for violating the terms of the Settlement Agreement.

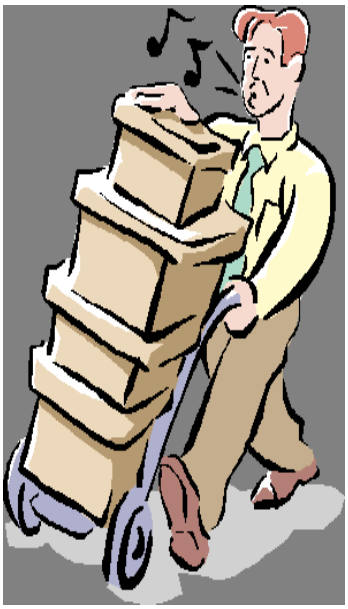
To view the entire Settlement Agreement, go to HUD's Web site: http://www.hud.gov/offices/hsg/sfh/res/resetagr.cfm and look for the settlement titled Integrity Home Funding, LLC, dated February 29, 2004.

Mortgage Licensee Orientation:

Friday, May 14, 2004 is the date of the next orientation for new mortgage licensees. Companies that are licensed between January 1, 2004 and March 31, 2004 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!

Opening a New Office? Relocating?

Did you know that approval from the Commission is required **BEFORE** you open a new office or relocate an existing one? Section 6.1-416 of the Code of Virginia requires licensees to apply for and obtain approval prior to relocating or opening an additional office. Opening an new office or relocating an office without the required approval could result in a fine as shown on page 5 of this newsletter. In addition, the statute requires licensees to notify (in writing) the Commissioner, within 10 days, of the actual date of the relocation or opening.



Once granted, the initial approval is good for one year. In most cases, openings and relocations occur soon after the approval is granted, but many times the relocation/opening is delayed or canceled altogether. Until a written confirmation from the licensee is received, the Bureau considers branches "authorized/unopened." Consumers and lenders/investors regularly call the Bureau to determine if offices/branches are licensed. **If the relocation/opening confirmation letter has not been sent to the Commissioner, we will inform the callers that the office is authorized, but unopened. Failure to properly notify the Commissioner of relocations/openings could result in consumers going elsewhere for a loan.**

HUD Withdraws RESPA Rule for Further Review

March 22, 2004: HUD's proposal to make homebuying simpler, more transparent and more affordable continues to be a priority. Due to the importance of HUD's efforts to reform the regulatory provisions of the Real Estate Settlement Procedures Act (RESPA) and the extensive concerns from Members of Congress, consumer groups and the business community, Acting Secretary Jackson has withdrawn the rule from the Office of Management and Budget (OMB). (From "Newsroom" at www.hud.gov)

Surety Bond Claims Filed

MB – 559 American Mortgage Bankers -- $6,639 claim paid 1/7/03 – license revoked 7/9/02

MB – 1301 Mortgage Finders of Virginia, Inc. d/b/a Excel Mortgage Bankers -- $2,210.50 claim paid 12/23/03 – license revoked 4/18/03

Since mid-1998, bond claims totaling $97,287.90 have been filed by the Bureau against mortgage licensees and paid by their surety companies (not including claims paid to third parties).

Acquisition of Control of Mortgage Licensee

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:

- files an application with the Commission at least 60 days prior to the proposed acquisition date;
- delivers other information concerning the financial responsibility, background, experience, and activities of the applicant, its directors, senior officers, principals, and members; and any proposed new officers or directors of the entity being acquired;
- pays the prescribed application fee.

In order to approve an acquisition application, the Commission must find that the applicant, its members, directors, senior officers and principals, and any proposed new officers/directors of the entity being acquired have the financial responsibility, character, reputation, experience and general fitness to warrant belief that the business will be operated efficiently, fairly and in accordance with the law.

The statute requires that acquisition applications be acted upon within 60 days of receipt of a completed application.

Amendments Made to Administrative Letter 0702

Administrative Letter 0702, titled "Charges on Subordinate Mortgage Loans by Certain Lenders" has been amended, effective January 20, 2004. Please check the Bureau's Web site at http://www.state.va.us/scc/division/banking/news/admin_lets.pdf to view the text of the letter.

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

TDD (804) 371-9206

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, 2003. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of February 15, 2004. 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 – 1555 Foster's Corporation d/b/a Classic Mortgage – 11/20/03
MB – 2099 Gassan Kassira d/b/a Kassira Financial – 11/20/03
MB – 1391 Nations Mortgage Company, Inc. – 11/24/03
MB – 2042 First Southern Residential Mortgage, Inc. — 12/09/03
MB – 1366 Mortgage Resource Group, Inc. – 12/15/03
MB – 1734 GetSmart.com, Inc. – 12/17/03
MLB – 805 Instafi.com (Inc.), (used in VA by Instafi.com) – 12/19/03
ML – 494 Ebanc Funding, Your Mortgage Lender, LLC d/b/a Lifetime Capital Guarantee -- 12/30/03
MB – 1056 Financial Solutions, LLC – 12/31/03
MB – 1979 United American Lending, L.P. – 12/31/03
ML – 467 AmerUs Home Lending, Inc. – 1/1/04
MLB – 289 Alliance Mortgage Company – 1/2/04
MB – 1884 MortgagePlus, LLC – 1/14/04
MB – 1699 Yates Mobile Services Corp. d/b/a Yates Home Sales -- 1/15/04
MB – 1235 Loyalty Mortgage Corporation – 1/21/04
MB – 1594 Virginia State Mortgage, Inc. – 1/27/04
MB – 1920 ATS, LLC – 1/31/04
MB – 1294 Integrity Home Mortgage, LLC – 1/31/04
ML – 238 Harborside Financial Network, Inc. – 2/2/04
MB – 1850 Millennium Lending Group, Inc. – 2/9/04
MB – 2020 Diversified Mortgage Capital, Inc. – 2/14/04
MB – 171 Jeffrey Dale Chandler – 2/23/04
MB – 2200 MJD Diversified Financial Services, Inc. d/b/a Integrity First Mortgage – 3/2/04

Mortgage Licenses Revoked

MB – 1868 OceanTrust Mortgage Corp. – 12/19/04 – for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia

Mortgage Penalties Paid:

MB – 2296 Evergreen Financial Services, Inc. d/b/a Evergreen Mortgage Company – paid $2,000 on 1/8/04 for failure to obtain Commission approval prior to operating a mortgage broker business in violation of §6.1-410 of the Code of Virginia

Jim C. Hodge – paid $15,000 on 1/8/04 for his failure to obtain Commission approval prior to acquiring more than 25% of the stock of Allied Home Mortgage Capital Corporation (MLB – 592), in violation of §6.1-416.1 of the Code of Virginia

MLB – 841 Prosperity Mortgage Company – paid $1,000 for failure to obtain Commission approval prior to relocating an office, in violation of §6.1-416B of the Code of Virginia

MB – 1466 Northstar Mortgage Corp. – paid $500 for failure to obtain Commission approval prior to relocating an office, in violation of §6.1-416B of the Code of Virginia

MLB – 691 American Residential Funding, Inc. – paid $1,000 for failure to obtain Commission approval prior to relocating an office, in violation of §6.1-416B of the Code of Virginia

David J. Oliverio – paid $1,000 on 1/8/04 for his failure to obtain Commission approval prior to acquiring 50% of the stock of 1st American Mortgage, Inc. d/b/a CU Mortgage Group (MLB – 657), in violation of §6.1-416.1 of the Code of Virginia

Mortgage Annual Report Reminder

A considerable number of licensed mortgage lenders and/or brokers have not met the March 1 statutory deadline for filing their mortgage annual reports with the Bureau of Financial Institutions. Reminder letters were mailed to delinquent licensees in early March. As of March 24, 2004, 1,316 licensees filed the reports and 87 were still delinquent. The mortgage annual report form for 2003 [(CCB-8805 (Rev. 11/2003)] was mailed to all licensees last December and was also placed on the Bureau's Web site at http://www.state.va.us/scc/division/banking/vareport.htm

The annual reports are used for calculation of annual fees, regulatory and financial review of operations, and for completion of the Bureau's Annual Report. It is important, therefore, that the reports be filed on time. Section 6.1-418 of the Code of Virginia requires licensees to file the mortgage report each calendar year on or before March 1 and does not provide for an extension of time. Licensees who have not met the statutory deadline stand to face penalties commensurate with the number of days the report is delinquent, denial of applications for additional offices or relocation of existing ones and/or revocation of their licenses.

Questions concerning the annual report can be directed to the Corporate Structure and Research section of the Bureau at (804) 371-9690.

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

IMPORTANT REGULATORY INFORMATION ENCLOSED!

Spring 2004

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, 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, Jane Owen, Todd Rose, Russell Spain and Dwight Stephens for their contributions to this issue!

When Are Adverse Action Notices Required?

(The following text is based on the Federal Trade Commission's (FTC) booklet "How to Write Adverse Action Notices." Although this booklet is no longer in print, an official from the FTC confirmed that the information is still accurate.)

When you deny a request for credit or close an existing credit account, this is considered adverse action. Ordinarily, you must send a written adverse action notice to the applicant or account holder. If you are unsure whether this requirement applies to your business transactions, consider the following questions.

Does This Transaction Involve Credit?
The Equal Credit Opportunity Act (ECOA) defines "credit" broadly as the right to defer payment of a debt, including the right to purchase and defer payment on property or services. The Act applies to credit extended for personal or business purposes. It applies regardless of whether credit must be repaid in installments or whether a finance charge is imposed. Thus, credit encompasses more than the mortgages, installment loans and revolving credit accounts that ordinarily come to mind.

Are You A Creditor?
After you determine that the transaction involves credit, you must decide whether you are a creditor for adverse action purposes. You are a creditor if, in the ordinary course of business, you regularly participate in the decision whether to extend credit. You participate in that decision if your actions have or may have an effect on whether an applicant receives credit (e.g., assignees or potential purchasers of the obligation).

(continued on page 3)

Points on Home Equity Lines of Credit

Did you know that when originating/brokering home equity lines of credit (HELOC), you can calculate your fees based only on the initial advance on the line versus the full amount of the line? Section 6.1-330-72 A of the Code of Virginia permits the points to be charged only on the principal amount *of the loan.* The "loan" is the amount of money advanced to the consumer. It is not the amount of the credit line that a consumer is permitted to draw upon. The full credit line amount simply represents the maximum amount of credit that is made available to the consumer. For example, if a lender extends a $50,000 line of credit to a consumer, and the consumer draws only $1,000, has the lender made a "loan" of $50,000? No - the amount of the loan was only $1,000. It is also important to point out that interest is charged on the unpaid balance of the loan, not the full credit line amount.

Please check Virginia loan files to determine if any overcharges have occurred, make any necessary refunds and modify compliance procdures accordingly.

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Annual Reports Available

The 2003 Annual Reports for Banks, Credit Unions, Savings Institutions and Trust Companies, along with the supplements for Consumer Finance Licensees, Payday Lenders and Check Cashers, are now available on the Bureau's Web site at: www.state.va.us/scc/division/banking/annual.htm. The 2003 Supplement for Mortgage Lenders and Brokers, Industrial Loan Associations, Money Order Sellers, and Nonprofit Debt Counseling Agencies will be available online soon.

Surge in Application Filings/Examinations Continue

The Bureau of Financial Institutions experienced another record year in application filings for various certificates of authority and licenses. In 2003, the total number of application filings increased to 2796 compared with 2418 in 2002 and 1325 in 2001. As you can see, application filings more than doubled over the last two years.

According to Deputy Commissioner Nick Kyrus, the continuing expansion of the mortgage industry and the regulation of payday lenders are responsible for the increase in application filings. Mortgage lender and/or broker application filings (which include applications for relocations and additional offices) increased from 2030 in 2002 to 2277 in 2003. In addition, the Bureau received 276 applications from payday lenders in 2003 compared with 167 in 2002. At the end of 2003, the Bureau regulated 1899 financial institutions and licensees compared with 1556 at the end of 2002.

The Bureau's Corporate Structure and Research Section is responsible for processing applications of both depository and non-depository financial institutions including banks, credit unions, money transmitters, consumer finance companies, nonprofit debt-counseling agencies, industrial loan associations, check cashers, payday lenders, and mortgage lenders and/or brokers. Depository institutions filed 133 applications while non-depository institutions filed 2663 applications in 2003.

The increase in application filings results in an increase in the examinations required to be conducted by the Bureau. In 2002, the Consumer Finance and Mortgage Section of the Bureau conducted 662 examinations – 83 consumer finance, 325 mortgage broker, 106 mortgage lender, 126 mortgage lender and broker, and 22 other non-depository examinations (which include payday lenders, nonprofit debt-counseling agencies, industrial loan associations and check cashers). In contrast, 810 examinations were conducted in 2003 — 152 consumer finance, 342 mortgage broker, 94 mortgage lender, 167 mortgage lender and broker, and 55 other non-depository examinations.

Attention New Mortgage Licensees

Friday, August 20, 2004 is the date of the next orientation for new mortgage licensees. Registration packets will be sent to companies that are licensed between April 1, 2004 and June 30, 2004. Orientation begins at 9:30 a.m. at our office and concludes around 3:00 p.m. We will make every attempt to accomodate licensees who have not attended a previous session or wish to attend again; however space is limited, and newly licensed companies are given priority. Please contact Carol Foster or Jane Harris at (804) 371-9701 to inquire about seating availability.

Adverse Action Notices (continued from page 1)

Has a Consumer Made an Application for Credit?
You must provide an adverse action notice whenever you deny a credit application. This applies to **oral** as well as **written** credit applications. If you deny a telephone application, you must request the consumer's name and address in order to send the adverse action notice. If the consumer refuses to provide the necessary information, you are not required to send an adverse action notice. However, the law requires that you keep the application, along with any notations you made concerning the adverse action decision and the reasons for it, for 25 months.

Even if your company has a formal policy requiring written applications from consumers, you may, in fact, process oral applications. This happens when a consumer inquiry about credit terms turns into an oral credit application. For example, your employees may respond to a consumer inquiry by giving information about your credit terms. This exchange of information does not constitute an application. However, if your employees also evaluate the consumer's qualifications and communicate a denial to the consumer, then they have treated the inquiry as an oral application. And, as a creditor, you must comply with the adverse action notice provisions.

You want to be sure that your employees know when a consumer inquiry becomes a credit application. Credit denial raises a consumer's inquiry to the level of an oral application. Even if your employees did not obtain all the information you ordinarily require to accept an application, clearly enough information was obtained to deny it.

If you want to guard against turning an inquiry into an oral application, instruct your employees not to evaluate the qualifications of consumers who inquire about your credit terms or credit-granting criteria. Instead, your employees should encourage consumers who want to know whether they qualify for credit to submit written applications.

Inquiries that are *not* applications:

- A consumer calls to ask about loan terms and an employee explains the creditor's basic loan terms, such as interest rates, loan-to-value ratio, and debt-to-income ratio.
- A consumer asks about terms for a loan to purchase a home and tells the loan officer his income and intended down payment, but the loan officer only explains the creditor's loan-to-value ratio policy and other basic lending policies, without telling the consumer whether he qualifies for the loan.

Examples of an application:

- A consumer calls to ask about lending standards, your employee explains that you require three credit references, and, after learning that the consumer only has two references, indicates that there is no point in filling out a written application.
- A consumer stops by your office, volunteers his income, asks whether he qualifies for a loan, and an employee says his income is too low to qualify.
- Your employees "pre-screen" consumers by refusing to take applications over the phone from those who do not meet threshold requirements such as minimum income amounts or years of employment.

Have You Taken Adverse Action?
The only remaining question is whether you have taken "adverse action" on a credit application or an existing account.

You *have* taken adverse action if:

- You refuse to grant an applicant's request for a loan or credit card.
- You make a counteroffer in which the terms or the amount differ from those the applicant requested **and** the applicant rejects the counteroffer. If you were to require a cosigner or a shorter repayment period than requested, for example, you would be making a counteroffer.
- You tell consumers who ask about obtaining credit that they do not meet your underwriting criteria.

You have *not* taken adverse action on a request for credit or on an existing account if:

- You make a counteroffer and the applicant accepts the offer.
- You close an account or change its terms because of inactivity, current delinquency, or default on the account.

"Dual Fees" Still Prohibited

Recently, the Bureau has received information that some mortgage companies are contacting real estate brokers and agents and telling them that several states now allow real estate agents to receive a fee for taking an application and providing initial loan documents in addition to receiving a real estate commission. Please note that Section 6.1-422C of the Code of Virginia prohibits "dual compensation" with limited exceptions (see explanation below). Real estate agents who engage in mortgage broker and/or lender activities (please refer to the definitions of "mortgage lender" and "mortgage broker" in §6.1-409 of the Code of Virginia) must be licensed by the Commission, be a bona fide employee of a licensed mortgage company, or be exempt from licensing under §6.1-411 of the Code of Virginia. It should also be noted that Section 3500.14 of Regulation X (RESPA) also prohibits kickbacks and unearned fees.

Section 6.1-422C prohibits a mortgage broker from receiving compensation for negotiating, placing or finding a mortgage loan where the mortgage broker, or any person affiliated with the mortgage broker has also acted as a real estate broker, agent or salesman in connection with the sale of real estate which secures the loan, ***unless*** the mortgage broker was licensed by the Commission prior to February 25, 1989. If the mortgage broker was licensed prior to this date, the prohibition is inapplicable as long as the proper disclosure is given in writing at the time the mortgage broker services are first offered to the borrower (see "Notice" under §6.1-422 B (5)).

An "affiliated person of a mortgage broker" means any person which is a subsidiary, stockholder, partner, trustee, director, officer or employee of a mortgage broker and any corporation ten percent or more of the capital stock of which is owned by a mortgage broker or by any person which is a subsidiary, stockholder, partner, trustee, director, officer or employee of a mortgage broker.

CSBS Elects Officers for 2004-2005

Mississippi Commissioner of Banking and Consumer Finance **John S. Allison** took office as Chairman of the Conference of State Bank Supervisors (CSBS) at the organization's 103rd Annual Meeting and Conference in Rancho Mirage, CA., today. Allison succeeds Oklahoma Bank Commissioner **Mick Thompson**, who continues on the CSBS Board as Immediate Past Chairman.

CSBS members also elected **D. Eric McClure**, Missouri Commissioner of Finance, as Chairman-elect. McClure will take office as CSBS Chairman at the 104th Annual Meeting in June 2005. Virginia Commissioner of Financial Institutions **E. Joseph Face** was elected Vice Chairman. Wyoming State Banking Commissioner **Jeffrey Vogel** was elected Secretary, and North Dakota Commissioner of Financial Institutions **Timothy J. Karsky** enters his second year of a two-year term as CSBS Treasurer.

"State bank supervisors play a vital role in ensuring that our nation will continue to benefit from our dual banking system," said Allison. "The Conference of State Bank Supervisors is the only national organization dedicated to advancing the state bank charter."

"Over 73 percent of the nation's banks are state-chartered," Allison added. "That fact points out that the dual banking system is alive and well and undergirds the organization's mission: to champion a system that offers competitive chartering options, efficient and effective supervision, and a lower cost of regulation for all banks."

(continued on page 6)

Press Release Issued:Provides Guidance to Consumers about Lock-ins

A press release entitled "Mortgage Rate Lock-ins Not Always such a 'Lock'" was issued on May 11, 2004 and can be found on the Bureau's Web site at www.state.va.us/scc/division/banking. The release provides tips for consumers for understanding the lock-in process and the potential pitfalls that can occur in a rising interest rate market.

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, 2004. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of May 15, 2004. 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

MLB – 76 Liberty Financial Services, Inc., surrendered its lender authority 2/16/04 - NOW LICENSED AS MB - 2489
MB – 171 Jeffrey Dale Chandler - 2/23/04
MB – 2114 Bycos LLC - 2/25/04
MB – 1797 Wholesale Express Mortgage Corporation, Inc. - 2/26/04
MLB – 435 The Merion Group, L.C., surrendered its lender authority 2/26/04 - NOW LICENSED AS MB - 2495
MB – 2200 MJD Diversified Financial Services, Inc. d/b/a Integrity First Mortgage - 3/2/04
MLB – 904 Fidelity & Trust Mortgage, Inc. - 3/2/04
MB – 1412 DH Capital, LLC - 3/5/04
MLB – 300 K. Hovnanian Mortgage, Inc. - 3/12/04
MB – 957 CitiStreet Mortgage Services, Inc. - 3/16/04
MB – 754 First Mid Atlantic Mortgage Corporation, Incorporated - 3/18/04
MB – 1508 Nancy G. Philpott d/b/a Piedmont Mortgage Services - 3/23/04
MB – 2283 Lakeside Mortgage, LLC - 3/31/04
MB – 1602 First Virginia Carolina Mortgage, Inc. - 3/31/04
MLB – 682 Advantage Investors Mortgage Corporation - 3/31/04
ML – 471 Washington Mutual Finance of Virginia, LLC - 4/1/04
MLB – 403 Chesapeake Investment & Mortgage Corporation - 4/6/04
MB – 1939 First Source Financial USA, Inc. (used in VA by First Source Financial USA) - 4/8/04
ML – 236 Woodland Capital Corp. - 4/13/04
MLB – 755 Oakwood Acceptance, LLC (used in VA by Oakwood Acceptance Corporation, LLC) - 4/13/04
MLB – 487 Independent Realty Capital Corporation - 4/13/04
MB – 1429 Monument Funding Group, Inc. - 4/19/04
MB – 1873 Mortgagebot LLC - 4/23/04
MB – 751 Pumphrey Financial Group, Inc. d/b/a American Mortgage Services, A Division of Pumphrey - 4/27/04
MB – 1263 Old Stone Mortgage Corporation - 4/30/04
MB – 1829 Victoria Jean Johnson d/b/a Luxury Loans - 4/30/04

Mortgage Licenses Denied

MB – 2335 Independent Mortgage Corp. – 4/20/04

Mortgage Licenses Revoked

MB – 1284 Loan Consolidation and Refinancing Company, LLC – revoked 5/5/04 for failure to continuously maintain the surety bond pursuant to §6.1-413 of the Code of Virginia
MB – 917 Ransford K. Fumey & Abdulai Conteh t/a Landmark Financial & Accounting Associates – revoked 5/12/04 for failure to continuously maintain the surety bond pursuant to §6.1-413 of the Code of Virginia and for various other violations of the Mortgage Lender and Broker Act

Mortgage Penalties Paid

Stacy Snyder – paid $1,000 on 3/15/04 for failure to obtain Commission approval prior to acquiring 40% of the stock of CapitalBanc Mortgage Corporation (MLB – 708), in violation of §6.1-416.1 of the Code of Virginia
MLB – 822 Challenge Financial Investors Corp. d/b/a Challenge Mortgage – on 4/13/04 paid $25,000 settlement for various violations of the laws and regulations applicable to the conduct of its licensed business

CSBS Elects Officers (continued from page 4)

"This is an incredibly important year for CSBS and for all state banking regulators to work together on issues vital to our nation's financial services industry."

Supervisors representing the districts will be:

- District I - Delaware State Bank Commissioner **Robert Glen**
- District II - Indiana Director of Financial Institutions **Charles W. Phillips**
- District III - Louisiana Deputy Commissioner of Financial Institutions **Doris Gunn**
- District IV – Kansas Commissioner of Banking **Clancy Norris**
- District V **-** Utah Commissioner of Financial Institutions **Ed Leary**

Chairman Allison appointed Arkansas State Banking Commissioner **Robert H. (Bunny) Adcock** and California Commissioner of Financial Institutions **Howard Gould** to at-large positions on the Board.

Judi Stork, Kansas Deputy Commissioner of Banking, who heads the Education Foundation of State Bank Supervisors, continues as a member of the Board. Other members of the Board of Directors are Bankers Advisory Board co-Chairmen, **Gary Nelon**, Chairman and CEO of First Texas Bancorp., Inc, Georgetown Texas and **Thomas B. Gronstal**, Iowa Superintendent of Banking; International Bankers Advisory Board co-Chairmen **Fernando Capablanco**, President, Banco Credito Inversiones, Miami, Florida; **Diana L. Taylor**, New York State Superintendent of Banks; North Carolina Commissioner of Banks **Joseph A. Smith Jr.**, Chairman of the CSBS Legislative Committee; Tennessee Commissioner of Financial Institutions **Kevin Lavender**, Chairman of the CSBS Regulatory Committee; and **David Sorrell**, Commissioner for the Georgia Department of Banking and Finance, who chairs the CSBS Technology Committee.

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

IMPORTANT REGULATORY INFORMATION ENCLOSED!

Summer 2004

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, 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 Melissa McCollum and Jane Owen, for their contributions to this issue!

Is Your Staff "In The Know?"

Do your employees know where they can access pertinent laws, regulations and administrative letters? Do you share the information discussed in the newsletter with your staff? The Bureau often receives calls from office staff who have questions about the laws and do not know where to go to find an answer. We encourage you to inform your staff that all of the laws, regulations and administrative letters, as well as current and past issues of this newsletter, press releases and frequently asked questions are on our Web site (www.state.va.us/scc/division/banking) .

The Bureau is very concerned with keeping down the cost of regulation for our licensees, so only one copy of the law book, regulations, administrative letters and newsletters are mailed to each licensee. It is the responsibility of the recipient (usually someone at the main office location) to distribute pertinent compliance information to staff members who deal in any way with Virginia loans.

Additional copies of the law books may be purchased directly from the publisher, LexisNexis Matthew Bender, by calling 800-223-1940. The 2004 Edition of the Laws of Virginia Related to Non-Depository Financial Services (product number 3549815) was recently mailed to licensees. This edition replaces and updates the 2002 Edition, the 2003 Supplement and the 2004 stop gap.

Use Caution When Soliciting Refinances

In recent complaints filed with the Bureau, it has been brought to our attention that there are solicitation letters being sent to consumers that may be in violation of Section 6.1-424 of the Code of Virginia relating to advertising. The Bureau cautions all mortgage licensees that solicitations should not contain the terms pre-approved unless it meets the definition adopted by the Federal Reserve Board in a February 2002 Final Rule.

In our Summer 2002 issue of this newsletter, the Bureau provided definitions for pre-approval and pre-qualification in response to numerous complaints from consumers who received pre-approval letters which were actually only pre-qualification letters. These mail solicitations used pre-screened information from credit bureaus to notify consumers that they were pre-selected based on the information from the credit bureaus. The solicitations encouraged the consumers to call to find out if a refinance opportunity is available which may save them money on their mortgage.

(continued on page 5)

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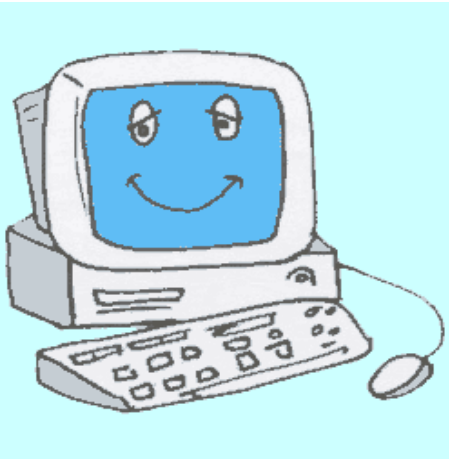
Annual Reports Now Available Online:

The 2003 Supplement to the Bureau of Financial Institutions' Annual Report for Mortgage Lender and Broker Licensees, Industrial Loan Associations, Money Order Sellers/Money Transmitters, Non-Profit Debt-Counseling Agencies and Check Cashers, and the 2003 Supplement pertaining to Consumer Finance Licensees can be found at: www.state.va.us/scc/division/banking/annual .



Household - Beneficial Settlement Update

On December 19, 2002, the State Corporation Commission entered into a settlement agreement with Household International, Inc. on behalf of its mortgage subsidiaries, including Household Finance (Household) and Beneficial Mortgage. Virginia's share of the nationwide settlement was $16.7 million. Settlement funds were distributed to eligible Virginians who obtained real estate secured loans from Household between January 1, 1999 and September 30, 2002 and who elected to participate in the settlement.

Eligible consumers were given until October 24, 2003 to file claims with the Settlement Administrator. The Settlement Administrator began mailing checks on December 16, 2003 to eligible consumers who participated in the settlement. The deadline for all check reissue requests was April 23, 2004. The Settlement Administrator is no longer accepting requests to reissue refund checks.

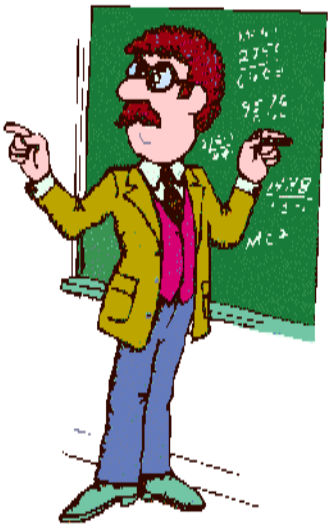
All funds not distributed will revert to the unclaimed property section of the Commonwealth of Virginia, and will be available after June 30, 2004.

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 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 deliveries of payoff information are not allowed and will be cited as overcharges. The holder of the obligation may not charge the borrower for the mode of delivery of payoff information.

Attention New Mortgage Licensees:

Friday, November 12, 2004 is the date of the next orientation for new mortgage licensees. Registration packets will be sent to companies that are licensed between July 1, 2004 and September 30, 2004. Orientation begins at 9:30 a.m. at our office and concludes around 3:00 p.m. We will make every attempt to accommodate licensees who have not attended a previous session or wish to attend again; however, due to an increased number of new licensees and limited seating, only one representative from each company should attend. Newly licensed companies are given priority. Please contact Carol Foster or Jane Harris at (804) 371-9701 to inquire about seating availability. Business casual attire is acceptable.



VA Commissioner Joins CSBS Strategic Planning Session

CSBS Vice Chairman and Virginia Commissioner of Financial Institutions E. Joseph Face, Jr. took part in the Conference of State Bank Supervisors' (CSBS) Strategic Planning Committee meeting on August 4-5. Commissioner Face is CSBS Vice Chairman for 2004-2005. The meeting was held to review and update CSBS' strategic plan to address federal and state policies impacting the nation's banking and financial institutions and their customers. Commissioner Face was one of nine state bank commissioners participating in the 1 ½-day meeting, led by Missouri Commissioner of Finance and CSBS Chairman-Elect Eric McClure.

"Through CSBS, state bank regulatory agencies and state-chartered banks continue to champion a system that offers competitive chartering options, efficient and effective supervision," Commissioner Face said. "This meeting solidified CSBS priorities to be addressed in the coming year to ensure the continued viability of state-chartered banks, which comprise 75 percent of the bank charters nationwide," he added.

Issues emerging as priorities from the planning session included increased focus on safety and soundness, economic growth and consumer protection, and federal preemption of state authority; innovation and collaboration in supervision and regulation; coordination with and among state and federal regulators; financial support for CSBS activities, enhanced involvement of constituents nationwide; promoting and publicizing CSBS activities; education and training for state bank examiners; and ongoing advocacy of state banking. Specific proposals will be taken to the CSBS Board when it meets in September.

Besides Commissioner Face and Mr. McClure, other state bank commissioners participating in the planning session included current CSBS Chairman John S. Allison, Mississippi Commissioner of Banking and Consumer Finance; Oklahoma State Bank Commissioner and CSBS immediate past chairman Mick Thompson; North Dakota Commissioner of Financial Institutions and CSBS Treasurer Timothy J. Karsky; CSBS Past Chairman and Connecticut Commissioner of Banking John P. (Jack) Burke; CSBS Board member and Indiana Director of Financial Institutions Charles W. Phillips; Michigan Commissioner of Financial and Insurance Services Linda A. Watters; and New Hampshire Bank Commissioner Peter C. Hildreth.

The Conference of State Bank Supervisors is the professional association of state officials responsible for chartering, supervising, and regulating the nation's 6,300-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 May 15, 2004. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of August 15, 2004. 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 Licenses Surrendered

ML – 560 SGB Corporation – 5/19/04
MB – 2121 Lili Ann, Inc. d/b/a Best Rate Mortgage On-Line – 5/25/04
MB – 1726 BNB & Associates, LLC – 6/16/04
MB – 1977 Aclarian, Inc. d/b/a Aclarian Mortgage – 6/22/04
MB – 2055 Mortgage Group, USA Inc. – 6/22/04
MB – 1620 Falcon Mortgage, Inc. – 6/28/04
MLB – 145 CitiFinancial Mortgage Company, Inc. – 6/30/04
MB – 1622 Congressional Funding, Inc. – 7/1/04
MB – 1269 Maximum Funding, LLC – 7/1/04
MLB – 720 Principal Residential Mortgage, Inc. – 7/1/04
ML – 330 First One Lending Corporation – 7/1/04
MB – 1981 Aable Mortgage Services, Inc. d/b/a Aable Mortgage – 7/1/04
ML – 339 Meritage Mortgage Corporation – 7/16/04
MB – 2061 Approval One Mortgage, LLC – 7/29/04
MB – 566 Community Development Group, Inc. of Delaware t/a Community Mortgage Company
MLB – 752 Homebound Mortgage, Inc. – 8/3/04
MB – 2289 Cal Capital Credit, Inc. – 8/10/04
MB – 1922 1st E-Choice Mortgage Corp. (used in VA by 1st E-Choice National Mortgage Corp.) – 8/11/04

Mortgage Licenses Denied

MB – 2411 Landmark Financial of Alexandria, LLC – 6/8/04
MB – 2281 Continental First Mortgage Corporation – 8/6/04

Mortgage Licenses Revoked

The following companies licenses were revoked on May 28, 2004 by the Commission for their failure to file the annual report by March 1, 2004 in violation of §6.1-418 of the Code of Virginia:
MB – 2012 American Mortgage Banc, Inc.
MB – 1169 Mandarin Mortgage Corp.
MLB – 666 The White Oak Mortgage Group, LLC
MB – 2060 Penn Mortgage Bank Corp.
MB – 1715 First Coast Capital Mortgage, Inc. d/b/a First Capital Mortgage
MB – 1858 Henri Jean-Baptiste d/b/a Express Mortgage & Co.
MB – 579 First Chesapeake Mortgage Corporation of Fredericksburg (used in VA by First Chesapeake Mortgage Corporation)
MB – 2050 Godwin Mortgage Group, Inc.

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Mortgage Penalties Paid

MLB – 653 MortgageIt, Inc. d/b/a MIT Lending – paid $1,000 on 5/24/04 for failure to obtain Commission approval prior to relocating an office, in violation of §6.1-416B of the Code of Virginia

MLB – 791 Carteret Mortgage Corporation – paid $50,000 settlement on 6/24/04 for various violations of laws and regulations applicable to the conduct of its licensed business

ML – 523 Flick Mortgage Investors, Inc. – paid $1,000 settlement on 8/9/04 for failure to obtain Commission approval prior to relocating an office and for failure to file the annual report by March 1, 2004 in violation of §§6.1-416B and 6.1-418 of the Code of Virginia

Other Penalties Paid

Michael R. Berte – paid $1,000 on 5/24/04 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Home Capital, Inc. (MLB – 773), in violation of §6.1-416.1 of the Code of Virginia

Use Caution When Soliciting Refinances (continued from page 1)

Notifying a consumer that they are pre-approved when no credit decision or written commitment from a lender has been obtained would be considered by the Bureau to be potentially misleading and/or deceptive, and may be in violation of §6.1-424 of the Code of Virginia and/or Virginia Regulation 10 VAC 5-160-20. This regulation states that ". . . no licensee shall . . . make false promises to induce an applicant to apply for a mortgage loan…." In addition, mortgage brokers who use this type of mail solicitation may also be in violation of the Virginia Consumer Protection Act, §59.1-196 et. seq. of the Code of Virginia.

According to a final rule issued by the Federal Reserve Board in February 2002 (67 Federal Register 722, February 15, 2002), a pre-approval is a written commitment issued by a lender after a comprehensive analysis of the creditworthiness of the applicant (including such verification of income, resources, and other matters as is typically done as part of a normal credit evaluation program) which is conditioned solely upon (1) identification of a suitable property; (2) no material change in the applicant's financial condition or creditworthiness prior to closing; and (3) limitations not related to the financial condition or creditworthiness of the applicant that a lender ordinarily attaches to traditional mortgage application (such as completion of a home inspection, an acceptable title insurance binder, certification of a clear termite inspection, etc.).

The issuance of a pre-approval letter implies it is being issued by a lender who has rendered a credit decision and furnished a written commitment (subject to the limited conditions described above) to extend a home purchase loan up to a specified amount for a designated period of time.

In addition, licensees are cautioned that it is also a violation of §6.1-424 (2) for a mortgage lender or broker to identify themselves by any name other than the name set forth on the license issued by the Commission.

Licensees are encouraged to carefully review the terminology they use when preparing mail solicitations. As discussed above, the term "pre-approval" has a specific meaning and cannot be used interchangeably with "pre-qualification."

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

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

IMPORTANT REGULATORY INFORMATION ENCLOSED!

Fall 2004

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, Jane Owen and Todd Rose for their contributions to this issue!

FTC Enforces Safeguards Rule

(The following is based on a press release issued by the Federal Trade Commission on November 16, 2004.)

In previous issues, the Bureau provided licensees with information about the Gramm-Leach-Bliley (GLB) Safeguards Rule so that licensees could take appropriate action to ensure compliance with the Rule. The Safeguards Rule is enforced by the Federal Trade Commission (FTC) for non-depository financial institutions.

The Safeguards Rule, which implements the security requirements of the GLB Act, requires financial institutions to have reasonable policies and procedures in place to ensure the security and confidentiality of customer information. The "financial institutions" covered by the Rule include not only lenders and other traditional financial institutions, but also companies providing many other types of financial products and services to customers. These institutions include, for example, payday lenders, check-cashing businesses, professional tax preparers, automobile dealers engaged in financing or leasing, electronic funds transfer networks, mortgage brokers, consumer finance companies, credit counselors, real estate settlement companies, and retailers that issue credit cards to customers.

The Rule is intended to be flexible to accommodate the wide range of entities

(continued on page 2)

Public Records and the SCC

The State Corporation Commission (the "Commission") has made it easier for the public to understand how to request and obtain public records from the Commission. Recently a "how to" guide was added to the Commission's Web site at www.scc.virginia.gov/commission/pub_docs.htm.

The Code of Virginia provides that the records of the Commission are open to public examination to the same extent as the records and files of the courts of the Commonwealth. The Commission's overall policy regarding public access to its records is to promote an increased awareness by all persons of the Commission's activities.

Nevertheless, not all Commission documents are public documents. For instance, the Bureau of Financial Institutions maintains some documents that are generally not subject to public disclosure such as examination reports and records containing personal financial information. For additional information regarding the confidentiality of Bureau records, please review the Bureau's Confidentiality Policy at www.scc.virginia.gov/division/banking/bfi_confid.pdf.

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Broker Errors Can Be Costly

The Bureau's position concerning the collection of broker fees without a signed written agreement was initially included in a February 5, 1993 memorandum, which was sent to all mortgage licensees. This memo was reprinted in several issues of this newsletter. Despite this, numerous violations of this nature continue to be cited.

Section 6.1-422B(4) of the Code of Virginia prohibits mortgage brokers from receiving compensation from the borrower other than that specified in a written agreement signed by the borrower. As many of you know, the Bureau's examiners review a broker's contract for compensation (i.e., broker or financing agreement) executed by the borrower to determine the maximum broker fees that can permissibly be collected by a broker. Broker fees are those charged to the borrower by the broker and retained by the broker as compensation. Documented third-party fees are not included in the term "broker fees." As stated in the 1993 memorandum, obtaining the borrower's signature on the agreement or contract for compensation after the violation occurs is NOT acceptable as a corrective measure, and an overcharge violation will be cited on the Report of Examination, which requires reimbursement. Likewise, disclosure of such fees on the Good Faith Estimate or HUD-1 Settlement Statement does not constitute compliance with §6.1-422B(4) since these documents are not agreements.

FTC Enforces Safeguards Rule (continued from page 1)

covered by the GLB Act, as well as the wide range of circumstances companies face in securing customer information. Accordingly, the Rule requires financial institutions to implement a written information security program that is appropriate to the company's size and complexity, the nature and scope of its activities, and the sensitivity of the customer information it handles. As part of its program, each financial institution must also (1) assign one or more employees to oversee the program; (2) conduct a risk assessment; (3) put safeguards in place to control the risks identified in the assessment and regularly test and monitor them; (4) require service providers, by written contract, to protect customer's personal information; and (5) periodically update its security program.

The FTC conducted a nationwide sweep of automobile dealers and mortgage companies to determine the level of compliance with the Rule. The results showed many of the companies targeted were in compliance with the Rule, but it also showed "significant failures to comply" by two mortgage companies involved in the FTC's sweep. In a press release dated November 16, 2004, the FTC explains that one of the companies, a mortgage broker, "...failed to implement safeguards to protect its customers' names, social security numbers, credit histories, bank account numbers, income tax returns, and other sensitive financial information..." and "...failed to train its employees on information security issues; oversee its loan officers' handling of customer information; and monitor its computer network for vulnerabilities." The second company was cited for failing to oversee the security practices of its service providers and of its loan officers working from remote locations. The FTC states both companies "...failed to comply with the Rule's basic requirements, including that they assess the risks to sensitive customer information and implement safeguards to control these risks."

Please review your policies to make sure they meet the requirements of the Safeguards Rule. Information about this Rule and the November 16, 2004 press release can be obtained from the FTC's website: www.ftc.gov. We suggest you contact an attorney or compliance specialist familiar with the Gramm-Leach-Bliley Act and the Safeguards Rule if you have questions.

SCC E-mail and Web Site Address Changes

In January 2005, the SCC Internet address will change from www.state.va.us/scc to www.scc.virginia.gov, and the Bureau page will be located at www.scc.virginia.gov/division/banking/index. All SCC E-mail addresses will change to **firstname.lastname@scc.virginia.gov** (ex: **jane.doe@scc.virginia.gov**). The address formats conform to the standard being used by most state governments throughout the U.S. The old Web and E-mail addresses will work for an as yet undetermined time.

Annual Reports Due

Mortgage lenders and/or brokers and consumer finance companies licensed by the Bureau of Financial Institutions are each required to file an Annual Report with the Bureau. These reports pertain to the business conducted and should not be confused with the corporate annual report (filed with the Office of the Clerk) required of corporations generally. The annual report forms were mailed to licensees in December 2004; however, copies of each type of annual report form are also available on the Bureau's Web site at: www.state.va.us/scc/division/banking/vareport. As of January 1, 2005, the address will be: www.scc.virginia.gov/division/banking/vareport.

The due dates for the annual reports are as follows: Mortgage Annual Report - due by **March 1, 2005;** Consumer Finance Annual Report - due by **April 1, 2005.**

Common tips for filing annual reports

1) Strictly follow the instructions for each report. If you need assistance, call the individuals listed below.
2) File the report in duplicate.
3) Make sure the report is complete, signed by a senior officer of the licensee, and notarized.
4) Do not send money with the report. Assessments will be mailed to mortgage licensees by April 25, 2005 and to consumer finance licensees by May 1, 2005, with payment due within 30 days after those dates.
5) Do not report business that is not conducted pursuant to the license granted, unless specifically requested. (For example, mortgage licensees should report only loans made to individuals who will use the proceeds primarily for personal, family or household purposes and which loans are secured by a deed of trust on any interest in one to four family, residential, owner-occupied property located in the Commonwealth).
6) Attach a financial report (audited, if available) for the licensee, including a balance sheet and income statement. (Each consumer finance licensee should also include a financial report, audited if available, for its parent company.) If audited reports are not available by the deadline, indicate with the submission of the annual report the date that the audited financial statement is expected to be filed.
7) Submit the report to the Bureau by the deadline. The statutes governing the filing of the reports do not provide for extensions of time. Failure to file the annual report by the due date may result in regulatory action (fines or revocation of license).

Annual reports are processed by the Bureau's Corporate Structure and Research Section. For questions regarding annual reports filed by mortgage companies, contact Robert Mednikov at (804) 371-9692. For questions regarding annual reports filed by consumer finance companies, contact Karen Heede at (804) 371-9372. General questions may also be directed to (804) 371-9690.

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 August 15, 2004. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of November 15, 2004. 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

MB – 1510 KBM Mortgage Group, Inc. – 8/16/04
MLB – 872 Loren W. Robinson, Inc. d/b/a Nationwide Mortgage Group – 8/17/04
MB – 2201 Progressive Finance Corp. d/b/a PFC Mortgage Group – 9/7/04
MLB – 453 CBSK Financial Group, Inc. d/b/a American Home Loans – 9/8/04
MB – 2076 PayRite Mortgage, LLC – 9/13/04
ML – 340 Aurora Loan Services, Inc. – 9/17/04
MLB – 748 All Fund, Inc. d/b/a All Fund Mortgage – 9/21/04
MB – 1398 The Knox Financial Group, LLC – 9/24/04
MB – 465 FSC Corporation – 9/27/04
MB – 2408 Coast Banc LLC – 9/30/04
MLB – 686 Sidus Financial, LLC – 10/01/04
MB – 1125 Olde South Mortgage Corporation – 10/05/04
MLB – 535 BNC Mortgage, Inc. – 10/5/04
MB – 2120 Loan Warehouse Corp. – 10/7/04
MB – 2122 NewVision Mortgage, Inc. – 10/11/04
MB – 1767 Center Street Mortgage, LLC – 10/14/04
ML – 511 Keystone Mortgage and Investment Company – 10/20/04
MLB – 612 Virginia Closing Corp. – SURRENDERED LENDER AUTHORITY ONLY 10/20/04 – now licensed as MB - 2770
MB – 1791 Dung Dinh Tran d/b/a US Mortgage & Investment Services – 10/22/04
MB – 1812 Maple Mortgage, Incorporated – 10/27/04
MB – 1811 Village Mortgage of NC, Inc. (used in VA by Village Mortgage, Inc.) – 10/27/04
MLB – 890 Axis Point LLC – 10/27/04
MLB – 809 PGNF Home Lending Corp. – 10/29/04
MB – 2379 Sun Mortgage Funding, LLC d/b/a Approved 1st Mortgage – 11/04/04
MB – 2241 RTG Financial Corporation – 11/08/04
MB – 1814 Southeast Funding, Inc. d/b/a Chesapeake Bay Mortgage Funding – 11/10/04
MLB – 882 Mortgage Virginia, LLC – 11/15/04
MLB – 775 Nationwide Financial Corp. – SURRENDERED LENDER AUTHORITY ONLY 11/15/04 – now licensed as MB - 2802

Mortgage Licenses Denied

MB – 2614 Net Branch Capital, LLC – 9/28/04

Mortgage Licenses Revoked

The following companies licenses were revoked by the Commission for their failure to continuously maintain the required surety bond, pursuant to §6.1-413 of the Code of Virginia:
MB – 1766 Performance Funding, LLC – 9/15/04
MB – 2031 Main Street Mortgage, LLC – 10/8/04
MLB – 319 Capitol Financial Services, Inc. d/b/a Capitol Home Mortgage – 11/2/04
MB – 2074 BancNet, LLC – 11/2/04

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Mortgage Penalties Paid

MLB – 660 Dana Capital Group, Inc. – entered into a settlement on 10/7/04 and paid $25,000 for various violations of the Mortgage Lender and Broker Act

The following licensees entered into settlements on 11/10/04 for failing to file the annual report by March 1, 2004, as required by §6.1-418 of the Code of Virginia:

ML – 530 Allied Mortgage Group, Inc. d/b/a Advantage One Financial - $500
ML – 551 American Fidelity Inc. - $500
MLB – 243 AmeriFirst Home Improvement Finance Co. (formerly Kenwood Associates, Inc.) - $800
MB – 1539 Approved Mortgage Capital, LLC - $800
MB – 1543 Atlantic Coast Mortgage Group, Inc. - $500
MB – 1262 Barksdale Business Group, Inc. d/b/a Barksdale Loan Consultants - $500
MB – 1230 Colonial Atlantic Mortgage Inc. - $800
MB – 1389 Condor Financial Group Incorporated - $500
MB – 1954 Cyber Mortgage, Inc. d/b/a Global Mortgage - $500
MLB – 372 Dream House Mortgage Corporation - $500
MB – 1900 Financial Advantage Funding Corporation - $800
MB – 1171 1st Choice Mortgage Corp. - $500
MB – 882 First American Mortgage Services, Inc. - $500
MLB – 694 Genisys Financial Corp. - $500
MLB – 872 Loren W. Robinson d/b/a Nationwide Mortgage Group - $800
ML – 397 Master Financial Inc. - $800
MB – 1836 Mobility Financial LLC d/b/a Partnersfirst Mortgage - $500
MB – 708 Money Organization of Mid-Atlantic, Inc. - $800
MB – 1838 Mortgage.close.com - $500
MLB – 26 Prosperity Mortgage Corporation - $500
ML – 423 United California Systems International, Inc. - $800
MLB – 1083 USA Home Loans, Inc. - $500
MB – 1564 Village Mortgage Corporation - $500
MLB – 98 WMC Mortgage Corp. d/b/a American Loan Centers - $500

Other Penalties Paid

Bing Sing D. Wang – paid $1,000 settlement on 9/29/04 for failure to obtain Commission approval prior to acquiring membership interests in Lifetime Financial Services, LLC (MB - 2170), in violation of §6.1-416.1 of the Code of Virginia

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

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

IMPORTANT REGULATORY INFORMATION ENCLOSED!

Winter/Spring 2005

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!

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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.

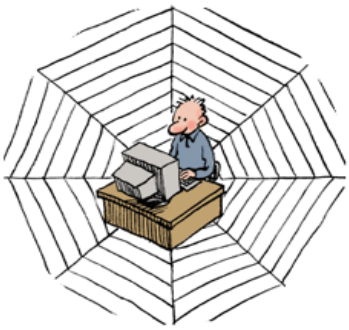
Under the proposed regulations, mortgage lenders and brokers would be prohibited from informing a consumer that he or she has been or will be "approved" or "preapproved" for a mortgage loan unless a mortgage lender has issued a written commitment based on a comprehensive analysis of that consumer's creditworthiness.

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.

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 ownerhsip 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.

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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!

The Compliance Connection

Regulatory news for Virginia mortgage and consumer finance companies
State Corporation Commission - Bureau of financial institutions

Summer 2005

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.

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Special thanks to Susan Hancock, Melissa McCollum, Todd Rose and Russell Spain for their contributions to this issue!

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New Law Addresses Certain Misrepresentations in Advertising

Mortgage licensees that use mailings for marketing purposes should be aware of new laws passed by the Virginia General Assembly. Effective July 1, 2005, the Code of Virginia specifically prohibits a person from using the name, logo, or symbol of a bank, trust company, savings institution, or credit union or a deceptively similar name, logo or symbol in any marketing material or solicitations in a manner that would cause a reasonable person to believe that the material came from, or is endorsed by, the depository institution, or that the depository institution is responsible for the marketing material or solicitation. The statutes do not apply to an affiliate or agent of a depository institution or to a person who uses the name, logo, or symbol with the consent of the depository institution. The new statutes are §§6.1-119.1 (banks and trust companies), 6.1-194.93:1 (savings institutions), and 6.1-225.65 (credit unions) of the Code of Virginia.

Violation of these laws is punishable as a Class 1 misdemeanor. In addition, pursuant to §59.1-92.22 of the Code of Virginia, the affected depository institution is entitled to the remedies available under §59.1-92.13 of the Code of Virginia, which includes injunctive relief, the destruction of the materials, payment to the depository institution or all profits derived from and/or all damages suffered by reason of such violations, and reasonable attorney's fees. (continued on page 5)

Changes to the Consumer Finance Act

Effective July 1, 2005, several sections of the Consumer Finance Act (Chapter 6 of Title 6.1 of the Code of Virginia) were revised. Links to the revised sections are available on the Bureau's web site: www.scc.virginia.gov/division/banking. Below is a brief summary of the revisions made by HB 1777:

- **Section 6.1-245 Definitions**

  Revised definitions of "Commissioner" and "Person" and added the definition of "Principal"

- **Section 6.1-254 Application for license; fee**

  Revised some of the information required to be supplied when applying for a consumer finance license

- **Section 6.1-256.1 Issuance of consumer finance license**

  Modified the list of persons who must have the requisite qualifications and added subsections C & D which require written notification after relocation of an office, the opening of an additional office or the closing of an office and information about any new senior officer, member, director or partner.

- **Section 6.1-258.1 Acquisition of control; application**

  Added a new section which sets forth application requirements for acquiring control of a consumer finance licensee.

Compliance Questions?...Start at the Top

In the past few months, the Bureau has received an influx of inquiries from branch personnel (managers, loan officers, processors) of licensed mortgage companies. Bureau staff certainly does not mind assisting these individuals; however, we feel it is more appropriate for branch personnel to contact their compliance and/or legal department first for guidance with specific compliance questions and company policy. The Bureau does not set corporate policy and in many cases, corporate policy may be stricter than the applicable Virginia laws and/or regulations. Another concern is that the answers, positions, or policies provided to branch personnel are not being implemented throughout the company since these questions are not being initiated by someone at the corporate level or by individuals capable of changing policy for the licensee. If the compliance/legal officers need to contact our office for clarification or for information concerning Bureau policy, we are happy to help them with compliance issues.

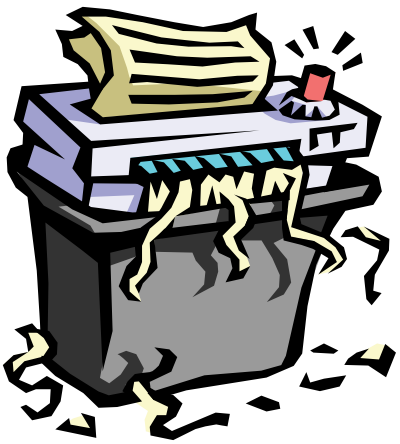
Recent examination reports of multiple branch mortgage companies reveal violations that stem from a lack of corporate compliance policy, failure to monitor branches for compliance and/or branches that set their own policy without consultation with the corporate office. Based on the results of examination reports, it appears that licensees who establish compliance policies (and update their policies, as needed) and monitor branches to ensure adherence to these polices are more likely to avoid violations of law and regulation and potential regulatory action pursuant to §§6.1-425, 6.1-426, or 6.1-428 of the Code of Virginia.

New Rule Requires Proper Disposal of Consumer Report Information

Effective June 1, 2005, the Federal Trade Commission (FTC) issued a final rule that requires businesses to take appropriate steps to dispose of sensitive information derived from consumer reports. The Rule implements Section 216 of the Fair and Accurate Credit Transactions Act of 2003, which is designed to reduce the risk of consumer fraud and related harms, including identity theft, created by improper disposal of consumer information. According to the FTC, those who must comply with the Rule include consumer reporting companies, lenders, insurers, employers, mortgage brokers, and entities that maintain information in consumer reports as part of their role as service providers to other organizations covered by the Rule.

Section 682-3 of the Rule requires businesses to properly dispose of consumer information by "taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal." Although the Rule does not require the use of specific methods to dispose of consumer information, the FTC provides examples of reasonable measures that may be used:

- Burning, pulverizing, or shredding papers containing consumer report information so that the information cannot be read or reconstructed;
- Destroying or erasing electronic files or media containing consumer report information so that the information cannot be read or reconstructed;
- Conducting due diligence and hiring a document destruction contractor to dispose of material specifically identified as consumer report information consistent with the Rule. Due diligence could include reviewing an independent audit of a disposal company's operations and/or its compliance with the Rule; obtaining information about the disposal company from several references; requiring that the disposal company be certified by a recognized trade association; and/or reviewing and evaluating the disposal company's information security policies or procedures.



"Consumer information" means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report, and includes a compilation of such records. The term "consumer report" is defined in the Fair Credit Reporting Act, 15 U.S.C. §1681 et seq.

Licensees are urged to establish policies and train employees in order to ensure compliance with the FTC's Rule. For additional information, go to: http://www.ftc.gov/bcp/conline/pubs/alerts/disposalalrt.htm. Please note the Disposal Rule is different than the FTC's Safeguards Rule with which licensees must comply.

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, 2005. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of August 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/division/banking/vamortgagelist**.

Mortgage Licenses Surrendered

MB – 2039 Prime Properties of N.C., Inc. d/b/a Durham Mortgage Co. – 2/15/05

MLB – 1120 Residential Mortgage Group, Inc. – SURRENDERED LENDER AUTHORITY ONLY 2/24/05 – now licensed as MB - 2938

MB – 2504 United States Mortgage and Finance, LLC – 2/24/05

MB – 862 Nationwide Mortgage Group, Inc. – 2/28/05

MB – 1957 All Mortgage Connections, Inc. – 2/28/05

MB – 1826 First Capital Financial Services, Inc. – 3/1/05

MB—2065 Paramount Capital Mortgage Corp.—3/1/05

MB – 2788 Caitlin Chen – 3/1/05

MLB – 578 Southern Showcase Finance, Inc. – 3/9/05

MB – 1660 BMG, LLC d/b/a Best Mortgage Group, LLC – 3/14/05

MB – 1953 Sun Coast Mortgage of Delmarva, LLC – 3/15/05

MB – 1574 Hamilton Funding Corp. – 3/15/05

MB – 1415 Jin K. Chang d/b/a T & B Mortgage Enterprises – 3/15/05

MB – 1743 Shenandoah Valley Mortgage Corporation – 3/17/05

MLB – 738 Atlantic Capital Funding Corporation – SURRENDERED LENDER AUTHORITY ONLY 3/23/05 – now licensed as MB - 2981

MB – 1741 Metro Mortgage Brokers of America, Inc. – 3/25/05

MLB – 279 Homebuyer's Mortgage, Inc. – 3/28/05

MB – 1708 General Mortgage Services, Inc. – 3/31/05

MB – 2091 J. T. Ferrick Mortgage, LLC – 4/1/05

MB – 2063 First Trust Mortgage Company, LLC – 4/4/05

MB – 2266 Loudoun Lenders LLC – 4/6/05

MB – 479 Jon Julian t/a Mortgage Funding of Virginia – 4/11/05

MLB – 1081 Macloud Financial, Inc. – 4/22/05

MB – 1133 Kimberlie Rouillard d/b/a The Kimberlie Financial Group – 4/28/05

MB – 2675 Potomac Trust Mortgage Company, LLC d/b/a Potomac Trust Mortgage – 5/4/05

MB – 2290 Homeview Financial, LLC – 5/4/05

MB – 2409 Assured Home Equity Corporation – 5/5/05

ML – 228 HomeAmerican Credit, Inc. d/b/a Upland Mortgage – 5/6/05

ML – 239 American Business Mortgage Services, Inc. – 5/6/05

MLB – 785 Nexstar Financial Corporation – 5/12/05

MB – 1539 Approved Mortgage Capital, L.L.C. – 5/12/05

MB – 2612 Amerifirst Funding LLC – 5/16/05

MLB – 107 Abbot Mortgage Service, Inc. d/b/a A. Abbot Value Mortgage – 5/17/05

MLB – 1166 Bankers Fidelity Mortgage Corporation – SURRENDERED LENDER AUTHORITY ONLY 5/19/05 – now licensed as MB – 3132

MB – 2238 Equity First Mortgage, Inc. – 5/23/05

MB – 2372 Kishmen Mortgage Corporation – 5/25/05

MB – 1825 Eagle Mortgage Services, Inc. – 5/26/05

MB – 1940 Catamount Mortgage Group, Inc. – 5/27/05

MB – 1990 1st Liberty Mortgage Company – 6/1/05

MB – 2457 Assured Financial Group, Ltd. – 6/1/05

ML – 503 ADCO Financial Mortgage Services, Inc. - 6/2/05

MB – 1817 Federated Home Mortgage, Inc. – 6/2/05

MB – 1425 Victorian Mortgage, Inc. – 6/3/05

MB – 2755 David L. Smith d/b/a A HomeOwners Mortgage Company – 6/6/05

MB – 1947 Access One Mortgage Group, Inc. – 6/7/05

(continued on next page)

Mortgage Licenses Surrendered (continued from page 3)

ML – 111 CitiFinancial, Inc. (TN) – 6/7/05 (now exempt)

ML – 67 CitiFinancial, Inc. – 6/7/05 (now exempt)

MB – 2126 America's Best Mortgage, Inc. – 6/8/05

MB – 1369 Calvert Mortgage Company, L.L.C. – 6/9/05

MB – 2643 SouthCoast Mortgage & Investment Corporation – 6/9/05

MB – 2671 Sun Financial Group, Inc. – 6/15/05

MB – 2426 Tysons Mortgage, Inc. – 6/21/05

MB – 1479 Thomas A. Pedersen – 6/24/05

MB – 2431 Southern Fidelity Mortgage Corporation – 6/30/05

ML – 507 American General Financial Services, Inc. – 7/1/05

MB – 2016 First Choice Lending, Inc. – 7/1/05

MB – 2507 Olympic National Bancorp, Inc. (Used in VA by: Olympic National Bancorp.) d/b/a Olympic Bancorp – 7/6/05

MB – 1583 Community Home Mortgage of Virginia, Inc. – 7/12/05

MB – 2541 Avid Financial Group, Inc. (Used in Va by: Avid Mortgage, Inc.) – 7/19/05

ML – 344 Associates Housing Finance, LLC – 7/21/05

MB – 2629 Capital Mortgage Solutions, Inc. – 7/25/05

MB—2215 Profolio Home Mortgage Corp. — 8/5/05

MLB – 376 Chesapeake Mortgage Consultants, Inc. – 8/11/05

Mortgage Licenses Denied

MB – 2724 Prime Cap Financial, LLC – 4/12/05

MB – 2705 Infinity Home Loan, Inc. – 7/28/05

ML – 648 Advent Home Mortgage Corporation – 8/8/05

MB – 2789 Edward L. Cronin – 8/9/05

Mortgage Licenses Revoked

MB – 1910 Integrity Mortgage, LLC – revoked 3/9/05 for failure to continuously maintain the surety bond pursuant to §6.1-413 of the Code of Virginia

The licenses of the following companies were revoked on July 11, 2005 by the Commission for their failure to file an annual report in violation of §6.1-418 of the Code of Virginia:

MB – 1948 USLoans.net, Inc.

MLB – 991 Premier Mortgage Group, LLC

MB – 2492 The Mortgage Edge, Inc.

MB – 1956 Home Loans Direct, Inc.

ML – 526 General Mortgage Corporation of America

MLB – 728 Greenfield Mortgage, Inc.

MB – 1671 Coast To Coast Home Equity Corp.

MB – 2108 Charles C. Frey d/b/a Approved 1st Mortgage

MB – 2381 Best Mortgage and Financial Services, Inc.

Fines Paid by Mortgage Licensees

MLB – 950 C H Mortgage Services, LLC – settlement order entered on 7/29/05 for $1,500 for failure to file an annual report by March 1, 2005, as required by §6.1-418 of the Code of Virginia

MLB – 660 Dana Capital Group, Inc. – settlement order entered on 8/5/05 for $1,000 for failure to obtain Commission approval prior to opening an office in violation of §6.1-416 of the Code of Virginia

MLB – 691 American Residential Funding, Inc. – settlement order entered on 8/5/05 for $2,000 for failure to obtain Commission approval prior to relocating an office in violation of §6.1-416 of the Code of Virginia

MB – 2242 Premier Mortgage Funding, Inc. – settlement order entered on 8/5/05 for $25,000 for various violations of the Mortgage Lender and Broker Act

MLB – 912 TransLand Financial Services, Inc. – settlement order entered on 8/5/05 for $20,000 for various violations of the Mortgage Lender and Broker Act

Other Fines Paid

Philip Romero — settlement order entered on 8/5/05 for $1,000 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Loan Link Financial Services, Inc. (Used in VA by: Loan Link Financial Services) (MLB—709), in violation of §6.1-416.1 of the Code of Virginia

The Heavener Company Mortgage LLC — settlement order entered on 8/5/05 for $1,000 for failure to obtain Commission approval prior to acquiring 25% of the ownership of TransLand Financial Services, Inc. (MLB—912), in violation of §6.1-416.1 of the Code of Virginia

Haddock Mortgage LLC – settlement order entered on 8/5/05 for $1,000 for failure to obtain Commission approval prior to acquiring 25% of the ownership of TransLand Financial Services, Inc. (MLB – 912), in violation of §6.1-416.1 of the Code of Virginia

Paul D. Bekman – settlement order entered on 8/5/05 for $1,000 for failure to obtain Commission approval prior to acquiring 30% of the ownership of Bay Capital Corp. d/b/a Level One Mortgage Capital (Silver Spring Office) (MLB – 780), in violation of §6.1-416.1 of the Code of Virginia

Benjamin M. Lyons – settlement order entered on 8/5/05 for $2,000 for failure to obtain Commission approval prior to acquiring 35% of the ownership of Bay Capital Corp. d/b/a Level One Mortgage Capital (Silver Spring Office) (MLB – 780), in violation of §6.1-416.1 of the Code of Virginia

Marie R. Jones — settlement order entered on 8/5/05 for $1,000 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Paragon Home Lending, LLC (ML – 451), in violation of §6.1-416.1 of the Code of Virginia

Phelps Mortgage LLC – settlement order entered 8/5/05 for $1,000 for failure to obtain Commission approval prior to acquiring 25% of the ownership of TransLand Financial Services, Inc. (MLB – 912), in violation of §6.1-416.1 of the Code of Virginia

Belmont Mortgage, Inc. – settlement order entered on 8/5/05 for $2,500 for conducting a mortgage broker business in Virginia without the required license in violation of §6.1-410 if the Code of Virginia

Jerry Cugno — settlement order entered on 8/5/05 for $5,000 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Premier Mortgage Funding, Inc. (MB – 2242), in violation of §6.1-416.1 of the Code of Virginia

Marco G. Minuto — settlement order entered on 8/5/05 for $1,000 for failure to obtain Commission approval prior to acquiring 75% of the ownership of Liberty Funding Services, Inc. (MLB – 727), in violation of §6.1-416.1 of the Code of Virginia

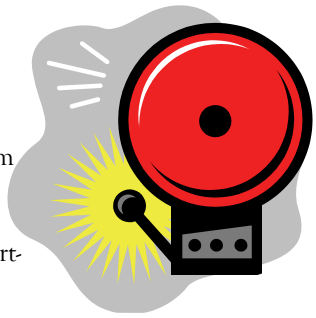
Henry A. Delgado - settlement order entered on 8/5/05 of $1,000 for failure to obtain Commission approval prior to acquiring 25% of the ownership of Liberty Funding Services, Inc. (MLB – 727), in violation of §6.1-416.1 of the Code of Virginia

James Guzanick — settlement order entered on 8/5/05 for $1,000 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Paragon Home Lending, LLC (ML – 451), in violation of §6.1-416.1 of the Code of Virginia

John Sallah — settlement order entered on 8/5/05 for $1,000 for failure to obtain Commission approval prior to acquiring 25% of the ownership of Madison Investment Advisors, LLC d/b/a Madison Mortgages (MB – 2089) in violation of §6.1-416.1 of the Code of Virginia

Misrepresentations in Advertising (continued from page 1)

Licensees are cautioned to review their marketing and solicitation materials for compliance with all applicable laws and regulations. One example of a mailing that might fall under these new laws would be a solicitation that appears to be from a consumer's current mortgage company (assuming that it is a bank, trust company, savings institution or credit union), but is actually a solicitation from an unrelated third party seeking to refinance the consumer's current mortgage loan. If the solicitation mentions the consumer's current mortgage company but fails to clearly disclose the identity of the third party who sent the solicitation, the consumer could reasonably believe that his current mortgage company is responsible for the solicitation.



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 East Main Street, Suite 800
Richmond, Virginia 23219

IMPORTANT REGULATORY INFORMATION ENCLOSED!

The Compliance Connection

Regulatory news for Virginia mortgage and consumer finance companies
State Corporation Commission - Bureau of financial institutions

Fall 2005

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, VA 23218-0640 or via email at nancy.walker@scc.virginia.gov.

Special thanks to Olena Bilay, Michael Beane, Susan Hancock and Russell Spain for their contributions to this issue!

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Mortgage & Consumer Finance Licensees: Annual Reports

Mortgage lenders and/or brokers and consumer finance companies licensed by the Bureau of Financial Institutions are each required to file an Annual Report with the Bureau. These reports pertain to the business conducted and should not be confused with the corporate annual report (filed with the Office of the Clerk) required of companies. The annual report forms are being mailed to licensees in December 2005, however, copies of each type of annual report form are also available on the Bureau's Web site at: www.scc.virginia.gov/division/banking/vareport.

The due dates for the annual reports are as follows: Mortgage Annual Report - due by March 1, 2006; Consumer Finance Annual Report - due by April 1, 2006.

Common tips for filing annual reports:

1) Strictly follow the instructions for each report. If you need assistance, call the individuals listed below;

2) File the report in duplicate;

3) Make sure the report is complete, signed by a senior officer of the licensee, and notarized;

4) Do not send money with the report. Assessments will be mailed to mortgage licensees by April 25, 2006 and to consumer finance licensees by May 1, 2006, with payment due within 30 days afterward.

5) Do not report business that is not conducted pursuant to the license granted, unless specifically requested. (For example, mortgage licensees should only report loans made to individuals who will use the proceeds primarily for personal, family or household purposes and which loans are secured by deeds of trust on any interest in one to four family, residential, owner-occupied property located in the Commonwealth);

6)Attach a financial report (audited, if available) for the licensee, including a balance sheet and income statement. (Each consumer finance licensee should also include a financial report, audited if available, for its parent company.) If audited reports are not available by the deadline, indicate with the submission of the annual report the date that the audited financial statement is expected to be filed;

Submit the report to the Bureau by the deadline. The statutes governing the filing of the reports do not provide for extensions of time. Failure to file the annual report by the due date may result in regulatory action (fines or revocation of license).

Annual reports are processed by the Bureau's Corporate Structure and Research Section. For questions regarding annual reports filed by mortgage companies, contact Robert Mednikov at (804) 371-9692. For questions regarding annual reports filed by consumer finance companies, contact Karen Heede at (804) 371-9372. General questions may also be directed to (804) 371-9690.

Referral Fees

Despite comments and questions we've received from our mortgage licensees, **referral fees are still illegal** under the Real Estate Settlement Procedures Act (RESPA).

In a November 17, 2005 Housing and Urban Development News Release (number 05-160), a $150,000 settlement with a New England mortgage company was announced. The settlement states that the company solicited and received tickets from certain settlement service providers to professional sporting events as well as music concerts and restaurant gift certificates in exchange for the referral of business.

RESPA was enacted in 1974 to provide consumers advance disclosures of settlement charges and to prohibit illegal kickbacks and excessive fees in the home buying process. Section 8 of RESPA prohibits a person from giving or accepting anything of value in exchange for the referral of settlement service business.

"RESPA can't be any more clear when it comes to the giving or receiving of 'things of value' in exchange for the referral of business – it's illegal," said Brian Montgomery, HUD's Assistant Secretary for Housing – Federal Housing Commissioner. "The message to the rest of the industry should be equally clear – we will not only investigate those who give, but those who receive kickbacks."

Licensees should review the requirements and prohibitions of RESPA and provide training to employees to ensure compliance. Information received by the Bureau regarding potential violations of Section 8 of RESPA may be forwarded to the RESPA Enforcement Office for further investigation.

Prohibited: MERS® Fee

Section 6.1-330.70 of the Code of Virginia, which pertains to first mortgage loans, allows mortgage lenders to collect the "reasonable and necessary charges in connection with *making* the loan" (emphasis added). It is the Bureau's position that a MERS® (Mortgage Electronic Registration System) fee is not incident to the relationship between the lender and borrower, but rather arises out of the subsequent transfer of a loan from the lender to a third-party purchaser. Section 6.1-330.72 of the Code of Virginia also prohibits the collection of this fee on subordinate loans.

Thus, the collection of a MERS® fee will be cited as an overcharge violation during examinations of licensees and refunds to the affected borrowers will be required. Please adjust your company polices as needed to ensure compliance in future transactions.

Independent Contractor vs. Employee?

We have seen many instances where licensees have reported compensation for mortgage brokering services (i.e., loan origination) by using Form 1099 rather than W-2. It is the Bureau's position that the reporting of compensation on Form 1099 demonstrates conclusively, for the purpose of licensing under the Mortgage Lender and Broker Act (MLBA), that the person compensated is an independent contractor. If that person acts as a mortgage broker, as defined under the MLBA, he must be licensed as such (unless he is exempt). Persons who violate the MLBA's licensing requirement are subject to (1) fines of up to $2,500 for each day they acted as a mortgage broker; (2) cease and desist orders; and (3) criminal referral to local prosecuting authorities (engaging in business as a mortgage broker without a license is a Class 6 felony). Furthermore, licensees who compensate unlicensed, non-exempt mortgage brokers are subject to (1) regulatory action (i.e., license suspension or revocation), (2) criminal referral to local prosecuting authorities, and (3) reporting of such practices to federal and state taxing authorities. Administrative Letter 1605, which was revised and reissued on September 30, 2002, also addresses this issue.

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 August 15, 2005. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of November 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/division/banking/vamortgagelist**.

Mortgage Licenses Surrendered

MB – 592 K. C. Mortgage Corporation – 8/19/05

MLB – 873 Core Mortgage Connection, L.P. – 8/26/05

MB – 1262 Barksdale Business Group, Inc. d/b/a Barksdale Loan Consultants – 8/29/05

MLB – 772 First Rate Mortgage Group Inc. (Used in VA By: First Rate Mortgage Corp.) – 9/1/05

MB – 2482 Consumer Plus Mortgage Corporation – 9/8/05

MB – 1535 Family First Mortgage, Inc. – 9/9/05

MB – 2210 Patriot Mortgage LLC – 9/12/05

MLB – 993 Coastal Community Mortgage L.L.C. – 9/12/05

MB – 2391 Thomas J. Hahn d/b/a Hahn Mortgage Service – 9/14/05

MLB – 66 American Home Mortgage Servicing, Inc. d/b/a American Home Mtg Servicing – 9/21/05

ML – 449 USMoney Source, Inc. d/b/a Soluna First – 9/21/05

MB – 2355 Millennium Mortgage Acceptance Corporation (Used in VA By Millennium Mortgage Services Corporation) – 9/21/05

MB – 2311 Abacus Discount Mortgage, Inc. – 9/29/05

MB – 2709 Paul S. Pristak d/b/a PSP Financial Services – 9/29/05

MLB – 421 Legacy Financial Group, Inc. – 9/30/05

MLB – 864 Priority Mortgage, Inc. – 10/10/05

MB – 670 Countryside Mortgage Services, Inc. – 10/12/05

MB – 1946 United American Mortgage Corporation – 10/24/05

MB – 2657 CorBanc Mortgage LLC – 10/31/05

MB – 556 Takoma Financial Services Inc. – 11/3/05

MB – 1802 Olympia Funding, Inc. – 11/15/05

ML – 490 HomeOne Credit Corp. – 11/15/05

Mortgage Licenses Denied

MLB – 1158 Matrix Investment Corporation – 10/27/05

MLB – 1211 Quick Loan Funding Inc. – 11/1/05

Mortgage Licenses Suspended

MB – 670 Countryside Mortgage Services, Inc. – settlement order entered on 9/13/05 suspending license for period of six months from date of the order (license surrendered 10/12/05).

Fines Paid by Mortgage Licensees

MLB – 679 Sunset Mortgage Company, L.P. – settlement order entered on 9/2/05 for $15,000 for violations of various laws and regulations applicable to the conduct of its licensed business

MB – 1563 Loans and Mortgages, LLC – settlement order entered on 9/2/05 for $7,500 for violations of various laws and regulations applicable to the conduct of its licensed business

MLB – 928 Apex Financial Group, Inc. d/b/a Aapex Mortgage – settlement order entered on 10/25/05 for $500 for failure to obtain Commission approval prior to relocating an office, in violation of §6.1-416 of the Code of Virginia

MLB – 750 Novastar Home Mortgage, Inc. – settlement order entered on 11/2/05 for $30,000 for violations of various laws and regulations applicable to the conduct of its licensed business

(continued on next page)

Other Fines Paid

LIM Holdings, Inc. – settlement order entered on 10/25/05 for $5,000 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of LowerMyBills, Inc. (MB - 2236) in violation of §6.1-416.1 of the Code of Virginia

Phillip Siebert – settlement order entered on 10/25/05 for $1,000 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Paragon Home Lending, LLC (ML - 451) in violation of §6.1-416.1 of the Code of Virginia

Interstate Credit Corporation – settlement order entered on 10/25/05 for $2,000 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Americorp Credit Corporation (MLB – 678) in violation of §6.1-416.1 of the Code of Virginia

W.J. Bradley Company Merchant Partners, LLC - settlement order entered on 10/25/05 for $2,000 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Americorp Credit Corporation (MLB – 678) in violation of §6.1-416.1 of the Code of Virginia

Phillip McCall – settlement order entered on 10/25/05 for $500 for failure to obtain Commission approval prior to acquiring 25% of the ownership of Americorp Credit Corporation (MLB – 678) in violation of §6.1-416.1 of the Code of Virginia

James M. Curry - settlement order entered on 10/25/05 for $1,000 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Key Financial Corporation (MLB – 1124) in violation of §6.1-416.1 of the Code of Virginia

James E. Davis - settlement order entered on 10/25/05 for $1,000 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Southwestern Mortgage Corporation (MB – 1694) in violation of §6.1-416.1 of the Code of Virginia

Raymond H. Starkes – settlement order entered on 10/25/05 for $1,000 for failure to obtain Commission approval prior to acquiring 25% of the ownership of Residential Home Loan Centers, LLC (MLB – 1127) in violation of §6.1-416.1 of the Code of Virginia

Alberto Leguizamon – settlement order entered on 10/25/05 for $2,500 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Embassy Mortgage, Inc. (MLB – 1142) in violation of §6.1-416.1 of the Code of Virginia

Settlements, Fines and the Literary Fund

Ever wonder what happens to the money we collect through fines and settlements with our licensees? If you think we keep the money and spend it, you are mistaken. All money collected by the Bureau through fines and/or settlements is sent to Virginia's Literary Fund. This fund is a permanent and perpetual school fund that began in 1810 and was later established in the Constitution of Virginia. Revenues to the Literary Fund are derived primarily from criminal fines, fees, and forfeitures; unclaimed and escheated property; and repayments of prior Literary Fund loans. Recently, unclaimed lottery winnings were added as a source of the fund.

The literary fund is used to provide low-cost loans for school construction, grants under the interest rate subsidiary program; debt services for technology funding, and to support the state's share of teacher retirement.

The above information was obtained from the January 18, 2005 Status Report by the House Appropriations Subcommittee on Elementary and Secondary Education.

Mortgage Orientation

During the past year, space in our 100 seat courtroom has limited our ability to allow new licensees to bring more than one compliance representative. The Bureau has secured an alternative location for future sessions of our mortgage orientation if the number of new licensees continues to rise. A notice to companies licensed during the 4th quarter of 2005 will be mailed in January with details on how to register for the next session.

It Pays To Be On the Right Side of the Law

Mortgage lenders and brokers with a good compliance record have their applications for additional offices and relocations processed more quickly. Although the Code of Virginia generally provides for a thirty day period for processing of these applications, the Bureau of Financial Institutions normally processes applications of licensees with a good compliance record within ten days, depending on the application volume.

An application shall be approved unless the Commission finds that a licensee has not conducted business efficiently, fairly, in the public interest and in accordance with law. The application shall be deemed approved if notice to the contrary has not been mailed to the applicant within thirty days of the date the application is received by the Commission. Delays in the approval process or denials are encountered in cases where applicable laws and regulations have been violated, as reflected in examination reports; an inordinate number of unresolved consumer complaints; failure to file the annual report for mortgage lenders/brokers (due March 1 annually); failure to pay assessment fees (due May 25 annually); failure to maintain a good standing status with the Clerk's Office of the State Corporation Commission; relocating or establishing offices without prior Commission approval; and failure to inform the Bureau of changes in directors and senior officers, as required by §6.1-416 of the Code of Virginia.

Compliance with laws and regulations simplifies and streamlines the regulatory process. It saves time and money, prevents interruption of services to the consumer and benefits everyone.

Any questions you may have concerning the application process should be directed to Deputy Commissioner Nick Kyrus or his staff at (804) 371-9690 (e-mail: nick.kyrus@scc.virginia.gov).

Document Preparation Fees:

We continue to receive questions regarding the charging of document preparation fees in conjunction with **first** mortgage loans.

Section 6.1-330.70 of the Code of Virginia permits a lender to "require the borrower to pay the reasonable and necessary charges in connection with making the loan, including the cost of title examination, title insurance, recording and filing fees, taxes, insurance, including mortgage guaranty insurance, appraisal, credit reports, drawing of papers and closing the loan."

The Virginia State Bar's UPL Opinion 112, states that it is the unauthorized practice of law for a mortgage company to make a separate charge for the preparation of instruments affecting title to real estate in connection with a real estate mortgage closing. The opinion notes that §6.1-330.70 of the Code of Virginia "directs that the [mortgage] company may require the borrower to pay expenses reasonably related to the transaction; however, the parties receiving payment must be restricted to those who are legally entitled to make such charges."

Additionally, the Real Estate Settlement Procedures Act (RESPA) §3500.12 prohibits the imposition of a charge for the preparation of the HUD-1 or HUD-1A, escrow account statements, or statements required by the Truth in Lending Act.

PLEASE NOTE: In addition, mortgage licensees are prohibited by §6.1-330.72 of the Code of Virginia from charging document preparation fees in connection with subordinate mortgage loans (unless the loan is exempt under §6.1-330.73).

IMPORTANT COMMISSION TELEPHONE NUMBERS

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

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Consumer Complaints…..(804) 371-9705

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Bureau of Financial Institutions
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Special thanks to Wayne Giles, Susan Hancock, Nick Kyrus, Bob Mednikov, and Todd Rose for their contributions to this issue!

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Insurance Premiums Charged by Consumer Finance Licensees Without Authorization

Several recent consumer finance Reports of Examinations revealed instances where insurance premiums were charged to borrowers without obtaining the borrower's authorization. When this occurs, consumer finance licensees are expected to implement the following corrective action.

When premiums for credit insurance are charged to a borrower without obtaining a signed authorization stating that the borrower wanted the insurance, the licensee should mail a detailed notice to the borrower explaining the nature of the error and request that the borrower sign and return the notice indicating whether or not the insurance is desired. The licensee should provide the borrower with a stamped self-addressed envelope for returning the notice. The notice should also contain a description of the insurance along with the amount of the premium(s), a copy of the original disclosure statement containing the violation, a statement that the insurance is already included in the borrower's monthly payments, and a statement that cancellation will result in a full refund of all premiums previously paid, plus interest.

If the borrower returns the notice and elects not to cancel, the insurance(s) may remain in effect and no refund is required. If the borrower returns the notice electing to cancel, full reimbursement (including accrued interest) should be sent directly to the borrower by check, (not by credits to the borrower's account). If

(continued on page 5)

Reminder : Annual Reports Due!

Mortgage Lenders/Brokers: Section 6.1-418 of the Code of Virginia requires each mortgage broker or lender to file on or before March 1, a written annual report, on a form prescribed by the Commissioner of Financial Institutions, concerning the mortgage business for the previous calendar year. If your 2005 report has not been filed, please file it immediately. The statute does not provide for an extension of time to file. Failure to file the annual report by the due date may result in regulatory action (i.e., fine or revocation of license). The annual report form can be downloaded from:
http://www.scc.virginia.gov/division/banking/vareport.htm

Consumer Finance Licensees: Section 6.1-301 of the Code of Virginia requires consumer finance licensees to file an annual report on or before April 1, concerning the business conducted in the preceding calendar year. The statute does not provide for any extension of time to file. Failure to file the annual report by the due date may result in regulatory action (i.e., fines or revocation of license). The annual report form for consumer finance licensees can be downloaded at: http://www.scc.virginia.gov/division/banking/vareport.htm

Brokers Must Retain Original Contract for Compensation:

It is common for mortgage brokers to be cited in the Report of Examination for failing to retain the *original* contract for compensation or broker agreement. Examiners are often told that the lenders require the broker to send them the original, leaving only a copy in the broker's file. Section 6.1-417 B of the Code of Virginia requires Virginia licensed mortgage brokers to retain the original contract for compensation for three years after the date of loan closing. If lenders request the original contract for compensation, mortgage broker licensees should inform the lender of the Virginia law that requires the broker to retain the original. This is necessary so we can examine the original document and authenticate the contracted terms. It is our understanding that when lenders are made aware of the requirement for Virginia mortgage brokers to retain the original, they will accept a certified true copy of the original.

Number of Licensees Continues to Rise

The table below compares the number of non-depository licensees (and the number of licensed offices) over the last two years and shows the number of examinations conducted by our section during 2004 & 2005. As you can see, there continues to be growth in most areas, especially in the mortgage and payday lending areas resulting in an overall growth of 15% in the non-depository area. The largest area of growth was in the mortgage lender and broker area with a 24% increase in licensees, followed by mortgage brokers (16% growth); and payday lenders (8% growth). Decreases occurred in the consumer finance area (10% reduction) mortgage lender area (4% reduction) and credit counseling (2% reduction). A large majority (approximately 75%) of mortgage licensees continue to be located outside the Commonwealth of Virginia, which makes it necessary for examiners to travel out of state to conduct examinations.

License Type	# of licensees as of 1/1/06*	# of licensees as of 1/1/05*	# of Exams 2005	# of Exams 2004
Mortgage Brokers	1245 (with 2184 offices)	1075 (with 1939 offices)	429	433
Mortgage Lenders and Brokers	514 (with 2818 offices)	415 (with 2576 offices)	218	220
Mortgage Lenders	147 (with 470 offices)	153 (with 532 offices)	78	87
Consumer Finance Companies	19 (with 220 offices)	21 (with 221 offices)	149	80
Payday Lenders	84 (with 750 offices)	78 (with 698 offices)	58	22
Credit Counseling Agencies	37 (with 67 offices)	38 (with 75 offices)	0	9
Industrial Loan Associations	6	6	3	4
TOTAL	**2052 *(with 6515 offices)**	**1786* (with 6047 offices)**	**935**	**855**

***these totals include licensees approved and open — not companies who are licensed but have not notified the Bureau that the licensee opened for business.**

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 December 15, 2005. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of February 15, 2006. 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/division/banking/vamortgagelist**.

Mortgage Licenses Surrendered

MB – 1802 Olympia Funding, Inc. – 11/15/05

ML – 490 HomeOne Credit Corp. – 11/15/05

MLB – 839 Merit Financial, Inc. – SURRENDERED ITS LENDER AUTHORITY ONLY 11/18/05 – NOW LICENSED AS MB - 3277

MB – 2187 New Millennium Funding, Inc. – 11/18/05

MB – 2881 Frontline Lending Corporation – 11/22/05

MLB – 1021 RHR Mortgage of America, LLC d/b/a Barna Financial – 11/22/05

MLB – 987 Republic Mortgage LLC – 11/29/05

MB – 2330 Nassau Mortgage LLC – 11/29/05

MB – 2227 Greater Washington Mortgage, Inc. – 11/30/05

MB – 1373 Freedom Plus Mortgage Corporation – 12/1/05

MB – 3016 Maple Tree Mortgage, Inc. – 12/1/05

MB – 1924 Fabian Thomas d/b/a F & T Mortgage – 12/1/05

MB-1173 Blue Ridge Mortgage, Inc. – 12/5/05

ML – 594 Washtenaw Mortgage Company – 12/05/05

ML – 521 American Mortgage Network, Inc. – 12/12/05

MB – 2346 Greater Chesapeake Mortgage Company, LLC – 12/14/05

MB – 1592 Century Home Mortgage, LLC – 12/16/05

MLB – 1043 Innovex Mortgage, Inc. – 12/16/05

MB – 2127 Ralph H. Pecorale d/b/a Metropolis Funding – 12/21/05

MB – 2256 Cristina V. G. Kramer d/b/a Anchor Tidewater Mortgage Company – 12/22/05

MLB – 989 1st American Banc Corporation – 12/23/05

MB – 2569 American Liberty Loans Inc. – 12/31/05

ML – 629 Woodmen Mortgage Services, Inc. – 12/31/05

MLB – 1146 1st Pacific Mortgage, Inc. – 12/31/05

ML – 372 CUNA Mutual Mortgage Corporation – 12/31/05

MLB – 885 Fidelity Mortgage of Virginia Inc. (Used in VA by: Fidelity Mortgage Inc.) – 12/31/05

MB – 2484 Peter M. Cutler d/b/a Proton Capital Group – 12/31/05

MB – 2584 Satterwhite Mortgage Services Inc. – 12/31/05

MLB – 705 Finance America, LLC – 12/31/05

ML – 514 Watermark Financial Partners, Inc. – 12/31/05

MB – 1289 Eades & Lower Mortgage Company, Inc. – 12/31/05

MLB – 1282 Berwyn Mortgage, Inc. – SURRENDERED ITS LENDER AUTHORITY ONLY 1/1/06 – NOW LICENSED AS MB - 3340

ML – 268 America's MoneyLine, Inc. – 1/1/06

ML – 267 American Gold Mortgage Corp. – 1/9/06

MB – 1704 The Mortgage Center Inc. – 1/9/06

MB – 1577 Janet E. Fraipont d/b/a Cooperative Mortgage – 1/20/06

MLB – 851 Realty Mortgage, LLC – 1/27/06

MB – 2810 Pinnacle Mortgage, LLC – 1/27/06

MLB – 1030 Homequest Capital Funding, LLC – 1/31/06

MLB – 661 The Richmond Mortgage Group LLC – 1/31/06

MLB – 691 American Residential Funding, Inc. – SURRENDERED ITS LENDER AUTHORITY ONLY 2/2/06 – NOW LICENSED AS MB - 3361

ML – 498 Credit Suisse First Boston Financial Corporation – 2/6/06

MB – 2947 Independent Mortgage of Tampa Bay, Inc. – 2/9/06

MB – 2084 Virginia Mortgage Processing Incorporated (Used in VA by: Mortgage Processing, Incorporated) – 2/13/06

MB – 2282 Passport Mortgage, Inc. – 2/15/06

(continued on next page)

Mortgage Licenses Denied

ML – 672 United Security Financial, Inc. – 11/17/05

MB – 2865 DTP Funding LLC – 11/21/05

MB – 3102 LoanNow Financial Corp. – 1/3/06

MB – 3131 Fiducial Lending Corporation – 1/4/06

MLB – 1225 Worldwide Financial Resources, Inc. – 2/7/06

MB – 3144 Home Mortgage of Carolina LLC – 2/14/06

Mortgage Licenses Revoked

MB – 2005 Low Cost Lending, Inc. d/b/a Loanweb – 12/21/05 - for failure to continuously maintain surety bond as required by §6.1-413 of the Code of Virginia

Fines Paid by Mortgage Licensees

MB – 2307 Amstar Mortgage Corporation – paid $10,000 on 1/23/06 for violations of various laws and regulations applicable to the conduct of its licensed business

MLB – 754 Bridge Capital Corporation – paid $10,000 on 2/14/06 for violations of various laws and regulations applicable to the conduct of its licensed business

MB – 582 Cornerstone Mortgage, Inc. – paid $5,000 on 2/14/06 for violations of various laws and regulations applicable to the conduct of its licensed business

The following licensees entered into settlements on 11/22/05 for failing to file the annual report by March 1, 2005, as required by §6.1-418 of the Code of Virginia:

MB – 2566 Choice Financing Services, Inc. - $800

MB – 2134 Financial Resources & Assistance of The Lakes Region, Inc. - $500

MB – 1704 The Mortgage Center, Inc. - $500

MB – 1466 Northstar Mortgage Corp. –$500

MB – 2106 Optimal Funding, Inc. - $800

MLB – 878 Service First Mortgage, L.C. - $800

MLB – 1142 Embassy Mortgage, Inc. - $500

MLB – 387 Fed Funding Mortgage Corporation - $500

MLB – 923 Fidelity First Mortgage, Inc. - $500

MB – 2385 JT Mortgage, Inc. - $800

MB – 856 Millennium Mortgage Corporation d/b/a A American Dream Mortgage Corporation - $500

MB – 2656 Mortgage Banc, Inc. - $800

MB – 2377 Mortgage Lending Associates, Inc. - $500

MLB – 1077 Nations Home Corporation d/b/a First American Lending Corp. - $800

MB – 2557 Northside Mortgage Group LLC - $500

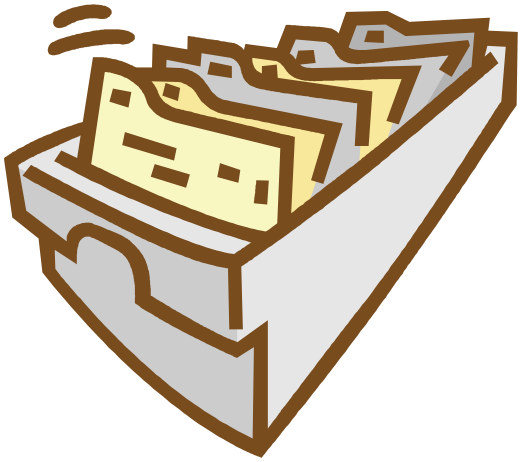
MB – 2663 Sun National Mortgage and Funding LLC d/b/a Sun Mortgage and Funding, LLC - $500

MB – 2279 Union Liberty Mortgage, Inc. (Used in VA by: National Liberty Mortgage, Inc.) - $500

MLB – 498 U.S. Mortgage Capital, Inc. d/b/a Legacy Financial Corporation - $500

MLB – 433 U.S. Mortgage Corporation of Virginia d/b/a The Mortgage Makers - $500

Surge in Application Filings



The Bureau of Financial Institutions experienced another record year in application filings for various certificates of authority and licenses. In 2005, the total number of application filings increased to 3207, compared with 2971 in 2004 and 1325 in 2001. Thus application filings more than doubled over the last five years.

According to Deputy Commissioner Nick Kyrus, the continuing expansion of the mortgage industry is mainly responsible for the application surge. Mortgage lender/broker application filings (which include applications for additional offices and new licenses) increased from 2414 in 2004 to 2754 in 2005. Applications for mortgage lender/broker licenses increased from 557 in 2004 to 632 in 2005. Presently, there are 2130 licensed mortgage lenders/brokers in Virginia. At the end of 2005, the Bureau regulated 2900 financial institutions (depository and non-depository) and licensees, compared with 1556 at the end of 2002.

Corrective Action for Insurance Premiums (continued from page 1)

the borrower fails to return the notice within 45 days from the date of the notice, full reimbursement as described above should be made. In the event the licensee cannot locate the borrower and it has been determined the licensee has made a reasonable attempt to locate him/her, the borrower's account may be credited with the reimbursement. Loan files should contain a copy of all mailings, reimbursement checks, related correspondence, etc. If copies are not retained and analysts cannot determine the licensee's compliance with these procedures, reimbursement will be expected.

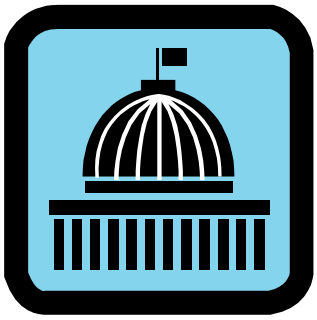
Record Retention

Section 6.1-417 of the Code of Virginia requires licensed mortgage lenders and brokers to maintain in their licensed offices certain books, accounts and records to enable the Bureau to determine compliance with applicable law. Certain examiners have reported instances where loan files are sent to an outside company for electronic imaging and a copy file is not maintained at the licensed location during the process, as well as instances where the imaged records are stored off site or somewhere other than a licensed location. Please be advised that a copy (either electronic or paper) of each closed or denied loan file must be maintained at all times in a licensed location.

NOTE: Mortgage brokers must also retain in a licensed office at all times the *original* contract for compensation/broker agreement.

Advertising Reminder

Section 226.24 of Regulation Z requires the disclosure of an annual percentage rate ("APR") if an advertisement includes an interest rate. In addition, if an ad includes certain repayment term(s) (such as the number of the payments or the amount of a monthly payment), there are additional disclosures that must be made. Licensees should review the advertising requirements in Regulation Z and ensure that all advertisements – whether print, radio, television or internet – comply with this federal regulation.



IMPORTANT COMMISSION TELEPHONE NUMBERS

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

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

Consumer Complaints…..(804) 371-9705

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

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

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

IMPORTANT REGULATORY INFORMATION ENCLOSED!

The Compliance Connection

Regulatory news for Virginia mortgage and consumer finance companies
State Corporation Commission - Bureau of financial institutions

Spring 2006

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 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 nancy.walker@scc.virginia.gov.

Special thanks to Michael Beane, Susan Hancock, Nick Kyrus and Todd Rose for their contributions to this issue!

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SCC Adopts Revised Lender/Broker Rules:

Emphasizes Consumer Protections; Marketing Practices

The rules by which mortgage lenders and brokers licensed in Virginia must operate will now include identifying information about licensees in advertisements and additional disclosures about "pre-approved" loan offers. **Licensees have *until September 1, 2006* to modify their practices to conform to the revised regulations.**

The revised regulations prohibit a licensed mortgage lender or broker from informing a consumer about being "pre-approved" for a mortgage loan unless the licensee provides the consumer with a separate written disclosure that includes certain specified information.

The rules also prohibit various marketing practices and require licensed mortgage companies to disclose additional information to consumers whenever certain statements are made by licensees in their advertisements. The disclosures must be understandable, prominently located, and readily noticeable by a potential borrower.

In addition, licensees are required to notify the Bureau in writing under specific circumstances including when another governmental authority takes formal action against the licensee relating to its mortgage business or other action where the total amount of restitution or other payment exceeds $20,000.

The regulations also prohibit licensees from retaining any portion of any fees charged to consumers for goods or services provided by third parties and prohibit mortgage brokers from issuing a "lock-in agreement" to a consumer unless the terms of the mortgage loan have actually been "locked-in" with a mortgage lender.

(continued on page 4)

Face to Lead CSBS

Joe Face, Commissioner of Financial Institutions, took the helm of the Conference of State Bank Supervisors (CSBS) when he became chairman of that organization during its 105th annual meeting and conference on May 19 in Norfolk, VA. CSBS, the only national organization dedicated to advancing the state banking system, is comprised of state officials responsible for chartering, supervising and regulating the nation's 6,000-plus state-chartered commercial and savings banks, and branches and agencies of foreign banks.

Mr. Face is the fourth Virginia banking commissioner to chair CSBS. His three predecessors were M.W. Bristow, 1930; Logan R. Ritchie, 1957; and Sid Bailey, 1983.

Mr. Face has served as Virginia's banking commissioner since 1997. He joined

(continued on page 4)

Disclosure of Payments from Lenders to Brokers

Instances have been found where amounts paid by mortgage lenders to mortgage brokers are not disclosed on the Good Faith Estimate (GFE) of settlement costs. Appendix B to Part 3500 of HUD's Regulation X (Illustrations of Requirements of RESPA) provides the following guidance:
Facts. A is a mortgage broker who provides origination services to submit a loan to a Lender for approval. The mortgage broker charges the borrower a uniform fee for the total origination services, as well as a direct up-front charge for reimbursement of credit reporting, appraisal services or similar charges.
Comment. The mortgage broker's fee must be itemized in the Good Faith Estimate and on the HUD - 1 Settlement Statement. Other charges which are paid for by the borrower and paid in advance are listed as P.O.C. on the HUD - 1 Settlement Statement, and reflect the actual provider charge for such services. Also, any other fee or payment received by the mortgage broker from either the lender or the borrower arising from the initial funding transaction, including a servicing release premium or yield spread premium, is to be noted on the Good Faith Estimate and listed in the 800 series of the HUD - 1 Settlement Statement.

HUD also states the following in its RESPA Statement of Policy 1999-1:
The Department [HUD] has always indicated that any fees charged in settlement transactions should be clearly disclosed so that the consumer can understand the nature and recipient of the payment. Code-like abbreviations like "YSP to DBG, POC", for instance, have been noted. Also, the Department has seen examples on the GFE and/or the settlement statement where the identity and/or purpose of the fees are not clearly disclosed. The Department considers unclear and confusing disclosures to be contrary to the statute's and the regulation's purposes of making RESPA-covered transactions understandable to the consumer. At a minimum, all fees to the mortgage broker are to be clearly labeled and properly estimated on the GFE. On the settlement statement, the name of the recipient of the fee (in this case, the mortgage broker) is to be clearly labeled and listed, and the fee received from a lender is to be clearly labeled and listed in the interest of clarity. For example, a fee would be appropriately disclosed as "Mortgage broker fee from lender to XYZ Corporation (P.O.C.)." In the interest of clarity, other fees or payments from the borrower to the mortgage broker should identify that they are mortgage broker fees from the borrower.

PLEASE NOTE: The GFE is not a substitute for the broker agreement (i.e., contract for compensation) required by section 6.1-422 B 4 of the Code of Virginia.

House Bill 698

Effective March 31, 2006, House Bill 698 amended the definition of mortgage broker in §6.1-409 of the Mortgage Lender and Broker Act. It is the Bureau's longstanding position that the payee listed on the note is the lender. Violations have been cited when licensed lenders act as a mortgage broker without a mortgage broker license when originating VHDA loans. VHDA requires that VHDA be listed as payee on mortgage loans made under their programs. Thus, we have always considered anyone originating VHDA loans to be a mortgage broker. However, as a result of this bill, licensed mortgage lenders may now act or offer to act as the originating agent in connection with VHDA loans (pursuant to an executed originating agreement with VHDA) without having to be licensed as a mortgage broker. **Please note: This only applies to VHDA loans.**

Additional office license certificate vs. "Umbrella" letter:

It has come to the Bureau's attention that at least one licensee has provided one of its offices with a letter that supposedly gives the office approval to conduct business under the "umbrella" of the license issued to the corporate office. The additional office was not approved by the Commission as an "additional office" to conduct mortgage brokering or lending services on Virginia residential owner-occupied property. Please note that any additional office of a licensed mortgage lender and/or broker (that originates loans secured by Virginia owner-occupied residential properties) must obtain a license certificate from the Commission for that specific location. If an office provides an "umbrella" letter as evidence of licensure in Virginia, ask for a copy of the office's license certificate issued by the Commission or call the Bureau to determine the office's license status.

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, 2006. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of May 15, 2006. 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/division/banking/vamortgagelist**.

Mortgage Licenses Surrendered

MLB - 956 American Freedom Mortgage, Inc. d/b/a AFMI Funding – 2/21/06

MB - 2079 Sharon L. Borst, Inc. d/b/a First Carolina Funding Company – 2/21/06

MB - 1176 Southern Mortgage Services, Inc. – 2/23/06

MB – 1657 Phoenix Financial Corporation d/b/a Abacus Mortgage - 2/24/06

MB – 1678 Jefferson Mortgage Corporation – 2/27/06

MB – 1236 Old Dominion Mortgage, Inc. – 2/27/06

MB – 2630 Trinity Mortgage, Inc. – 2/27/06

MB – 1999 Affordable Mortgage Corporation – 2/28/06

MB – 1720 Equity Vision Mortgage Corp. – 2/28/06

MB – 2726 Partnership Mortgage, Inc. – 2/28/06

MLB – 1048 Commonsense Mortgage Inc. d/b/a First Solution Lending – 3/2/06

MB – 2224 American Discount Mortgage Entity, Inc. (Used in VA by: American Discount Mortgage, Inc.) – 3/2/06

MB – 1500 Residential Loan Corp. – 3/4/06

MB – 3008 Amerifirst Mortgage of Virginia, LLC (Used in VA by: Amerifirst Mortgage LLC) – 3/8/06

MB – 2915 Southland Log Homes Mortgage Company, LLC – 3/14/06

MLB – 795 D & M Financial Corp. – 3/17/06

MB – 539 Edelman Mortgage Services, Inc. – 3/20/06

MLB – 1000 Altara Home Mortgage, LLC – 3/21/06

MB – 1224 Donna L. Chocklett d/b/a Chocklett Mortgage & Financial Services – 3/21/06

MLB – 750 NovaStar Home Mortgage, Inc. – 3/21/06

ML – 224 Dovenmuehle Funding, Inc. – 3/22/06

MLB – 926 Hic-Star Corporation d/b/a WestWorks Mortgage — 3/23/06

MB – 2257 Community Lending Associates, Inc. – 3/23/06

MB – 1021 John H. Yates t/a AAA Mortgage Brokers – 3/27/06

ML – 621 Elizabeth River Mortgage, L.P. – 3/31/06

MB – 967 Bozzuto Mortgage Company – 3/31/06

MB – 1965 Prime Mortgage Company – 3/31/06

MB – 1511 Community Home Mortgage, LLC d/b/a Community Mortgage Group, LLC – 4/1/06

MB – 1721 FaithLoan, Inc. d/b/a Midas Mortgage – 4/4/06

MB – 2322 Gordon Henry Miller d/b/a DNJ Mortgage – 4/10/06

ML – 524 FirstCity Mortgage, Inc. – 4/11/06

ML – 587 Acoustic Home Loans, LLC – 4/14/06

MLB – 1169 Quotemearate.com, Inc. – 4/18/06

MB – 1809 Prospex Mortgage Corporation – 4/26/06

ML – 607 Pinnacle Mortgage Company USA (Used in VA by: Pinnacle Mortgage Company) – 4/26/06

MLB – 1179 Assurafirst Financial Company – 4/26/06

MLB – 944 Sterling Coast to Coast Financial Group, Inc. – SURRENDERED ITS LENDER AUTHORITY ONLY – NOW LICENSED AS MB - 3480 — 4/27/06

MB – 2133 Celsius Mortgage LLC – 4/28/06

MB – 1358 Washington Nationwide Mortgages Corporation – 5/1/06

MB – 2246 Progressive Loan Funding Corporation (Used in VA by: Progressive Loan Funding) – 5/1/06

MLB – 958 Michigan Fidelity Acceptance Corporation d/b/a Franklin Mortgage Funding – 5/2/06

MB – 1378 First Dominion Mortgage Corporation – 5/2/06

MB – 2632 Harbor Court Funding, Inc. – 5/3/06

ML – 636 Southwest Funding, LP – 5/4/06

MLB – 771 Silver Construction Capital, L.L.C. – 5/15/06

MB – 2087 Equity Ventures Group, Ltd. – 5/15/06

(continued on next page)

Mortgage Licenses Denied

MB – 3169 Cardinal Mortgage Services, Corporation – 2/16/06

MB – 3157 MorNorth Mortgage Corporation – 2/16/06

MB – 3153 Huntfield Lenders, LLC – 3/9/06

MB – 3156 McLeod Capital Mortgage Group, Inc. – 3/9/06

MB – 3300 All Funding Mortgage, Inc. – 4/10/06

MB – 3299 Franek Home Loans, Inc. – 4/25/06

ML – 684 Lending Solutions, Inc. – 4/25/06

MB – 3195 Absolute Home Loans, Inc. – 5/3/06

MB – 3083 Nettalk Security Corp – 5/11/06

Mortgage Licenses Revoked

MB – 2570 Viridian Lending, LLC – 3/1/06 - for failure to continuously maintain the surety bond as required by §6.1-413 of the Code of Virginia

MB – 2441 Professional Mortgage Group, Inc. – 3/2/06 – for failure to continuously maintain the surety bond as required by §6.1-413 of the Code of Virginia

Fines Paid by Mortgage Licensees

MLB – 754 Bridge Capital Corporation – entered into a settlement on 3/1/06 and paid $10,000 for violating various laws applicable to the conduct of its licensed business

MB – 582 Cornerstone Mortgage, Inc. – entered into a settlement on 3/6/06 and paid $5,000 for violating various laws applicable to the conduct of its licensed business

MLB – 951 123LOAN, LLC – entered into a settlement on 4/27/06 and paid $5,000 for violating §6.1-424 of the Code of Virginia

Other Penalties Paid

Berkshire Hathaway, Inc. – paid $5,000 settlement on 2/23/06 for failure to obtain Commission approval prior to acquiring stock of Vanderbilt Mortgage and Finance, Inc. (ML - 189), in violation of §6.1-416.1 of the Code of Virginia

Face to Lead CSBS (continued from page 1)

the Bureau of Financial Institutions ("BFI") in 1979 as a bank examiner and was promoted to deputy commissioner for non-depository financial institutions in 1993. With a staff of about 95, BFI regulates and supervises more than 2,500 state-chartered financial institutions holding more than $80 billion in assets.

Commissioner Face recognizes the expanding role CSBS has assumed regarding non-depository financial institutions such as mortgage lenders and brokers, payday lenders, money transmitters, check cashers, and other financial service providers. Among his priorities as CSBS chairman are development of a national mortgage lenders licensing system and redoubled efforts to get a voting seat for state bank regulators on the Federal Financial Institutions Examination Council, an interagency body established to prescribe uniform principles, standards, and report forms and to promote uniformity in the supervision of financial institutions.

SCC Adopts Revised Lender/Broker Rules

(continued from page 1)

Generally, the new regulations are designed to provide Virginia consumers with helpful information, prohibit misleading or deceptive advertising practices, and require licensees to notify the Bureau when certain events occur in other states.

A copy of the revised regulations was mailed to each licensed mortgage lender and/or broker at the end of April. Licensees should review the regulations and make changes to policies and procedures to ensure compliance by September 1, 2006. A link to the revised regulation may be found at: www.scc.virginia.gov/division/banking/adminrules.htm

Compliance Tips:

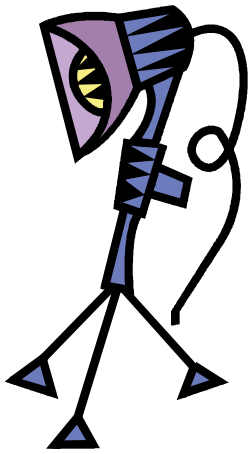
- During an examination, licensees will be asked to complete an Officer's Questionnaire and provide certain information to the Examiner-in-Charge. The questionnaire must be signed and certified "true and accurate" by a ***senior officer*** of the licensee. Reponses to reports of examination must be completed by a senior officer as well.

- When brokering a first and subordinate mortgage loan to an applicant simultaneously (i.e.: piggyback loan), please be aware that two separate broker agreements must be executed by the borrower if fees are received and retained by the broker in connection with both loans – one for the first mortgage and a separate agreement for the second mortgage.

- Section 6.1-422 B 1 of the Code of Virginia prohibits a licensed mortgage broker from receiving compensation, other than the documented costs of credit reports and appraisals, from a borrower until a written commitment to make a mortgage loan is given to the borrower by a mortgage lender. Therefore, the only "up-front" fees a mortgage broker may collect are the actual cost of a credit report and appraisal.

- Failing to respond to a request of the Bureau can result in the imposition of a fine, license suspension or license revocation. When you receive a request for information and/or documentation (for example: response to the Report of Examination, copy of loan files, completed Officer's Questionnaire and accompanying attachments), be sure to respond within the time frame noted in the request. If no time frame is noted you must respond within 30 days of the date of the request. Requests for this type of information are deemed to be in furtherance of the Bureau's investigation and examination authority provided for in §6.1-419 of the Code of Virginia (Reference Virginia Regulation 10 VAC 5-160-50).

BFI Spotlight: Corporate Structure and Research



The Bureau of Financial Institutions ("Bureau") is organized functionally into the following five sections: (a) Examination and Supervision of Banks, Trust Companies, Savings Institutions and Thrifts; (b) Examination and Supervision of Credit Unions; (c) Examination and Supervision of Non-Depository Institutions (consumer finance companies, credit counseling agencies, mortgage lender/brokers, money transmitters, payday lenders, industrial loan associations, and check cashers) (d) Administration and Finance; and (e) Corporate Structure and Research ("Corporate Structure").

While the first three sections deal specifically with the examination and supervision of certain types of institutions, Corporate Structure deals with the structure and corporate matters of all institutions regulated by the Bureau. In an effort to better serve you and enhance efficiency, we are providing a brief description of the main duties and responsibilities of Corporate Structure and encourage you to address all matters under its responsibilities by contacting the Section directly.

Corporate Structure's duties include the investigation of applications for certificates of authority and licenses. In addition to these investigations, Corporate Structure processes requests for name changes of financial institutions, licensees, re-issue of licenses, changes in ownership, changes in management and senior officers, opening and closing of offices, industry and public information and other corporate matters. The Section also reviews and processes annual report filings of mortgage companies, payday lenders, consumer finance companies, money transmitters, and credit counseling agencies, publishes the Weekly Information Bulletin for depository institutions, the Bureau's annual report for depository institutions, and the annual report supplements for non-depository licensees.

Financial institutions, licensees and prospective applicants for various licenses and certificates of authority are encouraged to check the Bureau's web site at www.scc.virginia.gov/division/banking/ap_forms for application forms, instructions and the applicable laws and regulations. Questions related to the filing of applications or questions or inquiries related to duties and responsibilities of Corporate Structure, should be directed to the Section's telephone number at (804) 371 - 9690. Questions concerning the examination of financial institutions and licensees should be directed to the applicable examination sections.

'Search' newest feature of SCC website

Find it. Find it faster. Find it now. The Commission recently took a longawaited step toward customer convenience by introducing a website search feature. Likely the most requested item on the SCC website, the search capability allows users to use keywords to bypass site navigation and quickly find items of specific interest. Search access is available from all division "home" pages, as well as common pages throughout the Commission's Internet site. The feature allows for searches to be customized to best meet user needs, and provides various reports useful in determining the kind of information sought by site users.

IMPORTANT COMMISSION TELEPHONE NUMBERS

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

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

Consumer Complaints…..(804) 371-9705

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

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

Bureau of Financial Institutions

1300 East Main Street, Suite 800

Richmond, Virginia 23219

IMPORTANT REGULATORY INFORMATION ENCLOSED!

The Compliance Connection

Regulatory news for Virginia mortgage and consumer finance companies
State Corporation Commission - Bureau of financial institutions

summer 2006

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 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 bfiquestion@scc.virginia.gov.

Special thanks to Carol Foster, Susan Hancock, Jane Harris, Melissa McCollum and Todd Rose for their contributions to this issue!

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Amended Rules Governing Mortgage Lenders and Brokers:

On July 20, 2006 the Bureau hosted a regulatory meeting in Richmond to discuss the revisions made to the Commission's Rules Governing Mortgage Lenders and Brokers, which went into effect on September 1, 2006. More than 300 people attended and heard an overview of the revisions and were able to ask the Bureau questions about the revised regulations. Below are some of the questions raised before and during the meeting.

Question: With regard to 10 VAC 5-160-20 (6), is the disclosure triggered only by the words "preapproved" or "pre-approved"? For example, if a letter describing a potential buyer's qualification used terms such as "approved" or "pre-qualified," would the disclosure be required?

> **Answer**: No. The disclosure is only triggered by the term "pre-approved." If the term "*approved*" or "*pre-qualified*" is used, the additional disclosure does not need to be given. However, if the term "approved," is used it should be supported by evidence of an approval by a lender.

Question: Are licensees required to have the borrower sign the pre-approval disclosure required by 10 VAC 5-160-20 (6) and keep a copy for the file?

> **Answer**: The regulation does not specifically require a licensee to obtain a consumer's signature on the disclosure or to retain a copy. However, as part of its examination, the Bureau will need to determine

(continued on page 5)

Surety Bond Tips

Below are some tips relating to the surety bond that mortgage licensees are required to maintain pursuant to § 6.1-413 of the Code of Virginia. These tips are based on common issues found when reviewing the surety bonds. Please review these tips and remember that failure to maintain an acceptable surety bond can lead to revocation of the license issued by the Commission.

- The name of the principal (i.e., mortgage company) on the bond should match the name on the Virginia license.
- If a new bond is submitted to replace one that has been cancelled, the effective date of the new bond should run concurrently with the cancellation date of the other bond; there must be no lapse in coverage.
- The current bond amount required for mortgage brokers is $25,000 and $50,000 for mortgage lenders and mortgage lender/brokers.
- Original bonds must be signed by the corporate officer or attorney-in-fact for the surety company and by the principal before sending it to the Bureau.

If you have any questions about the requirements for surety bonds, please contact the Bureau at (804) 371-9701.

Application Form Revisions

The Bureau recently revised many of its application and supplemental forms. Below is a list of some of the forms that were revised. Please make sure to use the most current form when filing applications with the Commission.

Form No. CCB-4402

Application for Consumer Finance License

Form No. CCB-8804

Application for Mortgage License

Form No. CCB-8810

Application for Additional Authority (Mortgage)

Form No. CCB-1123

Personal Financial Report and Disclosure Form

Form No. CCB-1143

Limited Personal Financial Report and Disclosure Form

Form No. CCB-1150

Employment and Business Affiliation Disclosure Form

Opening a New Office? Relocating?

Did you know that approval from the Commission is required **BEFORE** you open a new office or relocate an existing one? Section 6.1-416 of the Code of Virginia requires licensees to apply for and obtain approval prior to relocating or opening an additional office. Applications should be received at least 30 days prior to the anticipated move/opening date. Opening a new office or relocating an office without the required approval could result in a fine or other regulatory action. In addition, the statute requires licensees to give written notice to the Commissioner of Financial Institutions within 10 days of the commencement of business at the additional or relocated office.

Once granted, an initial approval remains valid for one year. In most cases, openings and relocations occur soon after the approval is granted, but many times the relocation/opening is delayed or canceled altogether. Until written notice from the licensee is received, the Bureau considers offices to be "authorized/unopened". Such offices do not get put on our list of licensees on the Bureau's website until the notification of opening is received. Consumers and lenders/investors regularly call the Bureau to determine if offices are approved. **If a relocation/opening notice has not been received by the Commissioner, the Bureau will inform the individual that the office is authorized, but unopened.**

Surety Bond Claims

MB – 670 Countryside Mortgage Services, Inc. - $7,198 claim paid 3/29/06 – license surrendered 10/12/05

ML – 449 US Money Source, Inc. d/b/a Soluna First -- $806 claim paid 4/24/06 – license surrendered 9/21/05

MLB – 1048 Commonsense Mortgage, Inc. -- $20,074.10 claim paid 8/8/06 – license surrendered 3/2/06

Since the middle of 1998, Bureau staff has filed bond claims (pursuant to § 6.1-413 of the Code of Virginia) against mortgage licensees totaling $167,049. The payments received are forwarded to borrowers/applicants and reflect overcharge violations cited by the Bureau in connection with their loans or loan applications. This total does not include any claims that may have been filed by and paid to third parties.

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 May 15, 2006. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of August 15, 2006. 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.scc.virginia.gov/division/banking/violate.htm.

Mortgage Licenses Surrendered

MB – 2900 Pathway Financial Services, Inc. – 5/16/06

MB – 2304 Natael Mortgage Consultants Incorporated – 5/20/06

MB – 2231 America's Best Lending Network, Inc. – 5/23/06

MB – 841 Accent Mortgage Services, Inc. – 5/23/06

MB – 2559 Apex Mortgage Brokers, Inc. – 5/30/06

MLB – 780 Bay Capital Corp. d/b/a Level One Mortgage Capital (Silver Spring Office) – 6/1/06

MLB – 948 Global Home Loans & Finance Inc. d/b/a directloansource.com – 6/1/06

MB – 2855 Whitney, Mason & Company L.L.C. – 6/2/06

MLB – 1023 Peoples Trust Mortgage, LLC d/b/a Peoples Choice Mortgage – 6/12/06

MLB – 241 Liberty American Mortgage Co. – 6/12/06

MB – 2198 Ever Fund Mortgage LLC – 6/14/06

MB – 2067 Royal Mortgage Bankers, Inc. – 6/15/06

MLB – 528 MLI Capital Group, Inc. – SURRENDERED ITS LENDER AUTHORITY ONLY 6/16/06 – NOW LICENSED AS MB - 3557

MB – 1335 Regency Mortgage, Inc. – 6/19/06

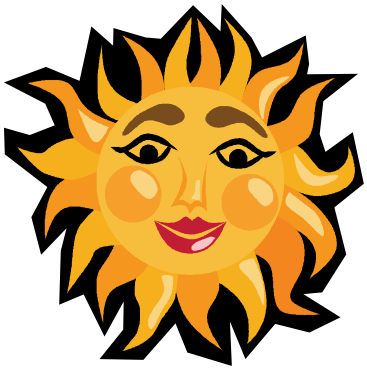
MB – 47 Pegasus Mortgage Services, Inc. – 6/19/06

MB – 2223 Stonehouse Mortgage Group, Inc. – 6/19/06

MB – 2367 Complete Mortgage Solutions, Inc. – 6/23/06

MLB – 1246 Abbitt Mortgage, LLC – 6/27/06

MB – 2722 Foundation Trust Mortgage, LLC – 6/30/06



MB – 2404 Stratus Home Loans, Inc. (Used in VA by: United Mutual Funding, Inc.) – 7/1/06

MB – 2684 Accel Mortgage Solutions, Inc. – 7/5/06

ML – 654 Lenders Association, Inc. – 7/11/06

MLB – 970 Ivanhoe Financial, Inc. – 7/17/06

MLB – 660 Dana Capital Group, Inc. – surrendered in lieu of a hearing for revocation of license - 7/21/06

MB – 2844 Dream Home Mortgage Inc. d/b/a Dream Home Mortgage – 7/24/06

MB – 2861 Sittig Mortgage, LLC – 7/25/06

MB – 2658 North Georgia Mortgage Group, Inc. – 7/30/06

MB – 2918 Hudson Executive Mortgage Corporation – 8/1/06

MB – 1551 First Commerce Mortgage Corporation – 8/6/06

MB – 1199 Joanne C. Sebeck d/b/a Cannon Mortgage – 8/7/06

MB – 3277 Merit Financial, Inc. – 8/8/06

MLB – 769 Mortgage Pros, Inc. - SURRENDERED ITS LENDER AUTHORITY ONLY 8/11/06 – NOW LICENSED AS MB – 3620

MLB – 1055 MacArthur & Baker International, Inc. - SURRENDERED ITS LENDER AUTHORITY ONLY 8/14/06 – NOW LICENSED AS MB – 3621

MLB – 1004 First Continental Mortgage and Investment Corp. – 8/14/06

MLB – 387 Fed Funding Mortgage Corporation – 8/15/06

(continued on next page)

Mortgage Licenses Denied

MLB – 1314 Dynamax Mortgage, Inc. – 5/16/06

MB – 3222 NewMax Mortgage, Inc. – 5/22/06

MLB – 1358 AAA WorldWide Financial Co. – 5/25/06

MB – 2933 Metropolitan Mortgage and Financial Services, Corporation – 6/12/06

MB – 3282 Lucree LLC – 6/12/06

MB – 3418 All Star Mortgage, Inc. – 7/12/06

MB – 3304 First Atlantic Financial, L.L.C. – 7/20/06

MB – 3143 LoanPro, LLC – 8/2/06

MLB – 1275 Ark-La-Tex Financial Services, LLC – 8/15/06

Mortgage Licenses Revoked

The following companies' licenses were revoked by the Commission on June 6, 2006 for their failure to file their 2004 and 2005 annual reports in accordance with § 6.1-418 of the Code of Virginia:

ML – 551 American Fidelity, Inc.

MB – 2415 Nationwide Financial Group LLC

The following companies' licenses were revoked by the Commission on June 9, 2006 for their failure to file their 2005 annual report, as required by § 6.1-418 of the Code of Virginia:

MLB – 923 Fidelity First Mortgage, Inc.

MB – 2006 1st Millennium Mortgage, LLC

MB – 1898 Home Equity Loan Products, Inc.

MB – 1988 IMA, Inc. d/b/a International Mortgage Association

MLB – 856 Integrus Mortgage, LLC

MB – 2841 Liberty House Financial Group, L.L.C.

MB – 2152 Mountain Valley Mortgage Corporation

MB – 2445 NationsOne Mortgage, Inc.

MB – 2380 Park West Mortgage, Inc.

MLB – 878 Service First Mortgage, L.C.

ML – 423 United California Systems International, Inc.

Fines Paid by Mortgage Licensees

MLB – 662 Atlantic Bay Mortgage Group, L.L.C. – entered into a settlement on 6/15/06 and paid $20,000 for violating various laws applicable to the conduct of its licensed business

ML – 523 Flick Mortgage Investors, Inc. – entered into a settlement on 6/9/06 and paid $2,500 for failing to produce documents that had been repeatedly requested by the Bureau

MB – 1713 Virginia Sismanoglou d/b/a Capricorn Mortgage Co. – entered into a settlement on 6/29/06 and paid $2,500 for violating various laws applicable to the conduct of her licensed business

Other Fines Paid

Eric Morgenson – paid $1,000 settlement on 5/18/06 for failure to obtain Commission approval prior to obtaining 25% of the stock of Nationwide Lending Corporation (MLB-648), in violation of § 6.1-416.1 of the Code of Virginia

Timothy J. Burke – paid $1,000 settlement on 5/18/06 for failure to obtain Commission approval prior to obtaining 25% of the stock of Nationwide Lending Corporation (MLB-648), in violation of § 6.1-416.1 of the Code of Virginia

Amended Rules Governing Mortgage Lenders and Brokers: (continued from page 1)

whether a licensee has provided the disclosure and that it contains the information required by the regulation. Although it is up to each licensee to demonstrate compliance with the regulation, the Bureau considers a copy of the disclosure bearing the consumer's signature to be the best source of documentation. Records should be retained in accordance with § 6.1-417 of the Code of Virginia.

Question: Will "prequalification" letters be treated the same as "pre-approval" letters?

Answer: No. Only letters containing the word "preapproved" (or "pre-approved") trigger the disclosure requirements in 10 VAC 5-160-20 (6).

Question: Will the Bureau develop a model disclosure form or model language for the pre-approval disclosure form?

Answer: The Bureau does not plan to do so at this time.

Question: In advertisements, can a licensee state that it is licensed by the "VA SCC" instead of stating that it is licensed by the "Virginia State Corporation Commission?"

Answer: No. Licensees must use the exact language found in the regulation.

Question: Do business cards or company letterhead fall under the definition of "advertisement?"

Answer: Although these items are sometimes used for advertising purposes, the Bureau will consider business cards and stationery to be promotional items like pens, pencils and notepads (see definition of "advertisement"). Accordingly, the Bureau will not require business cards and stationery (letterhead) to bear the disclosures specified in 10 VAC 5-160-60 A.

Question: Are the rate lists that are compiled and published by a newspaper considered to be "advertisements?"

Answer: No.

Question: If an ad was ordered by a licensee prior to the Commission's final order dated April 24, 2006, may the licensee continue to run the ad after September 1 if the ad does not comply with the new regulation?

Answer: All advertisements used or published on or after September 1, 2006 must comply with the regulation. Advertisements appearing in telephone books and other publications that were published prior to September 1 (and will remain in circulation after September 1) will not need to comply with the advertising regulation. However, if a licensee has the ability to modify the contents of the advertisement after September 1, we will expect the advertisement to comply with the regulation.

Question: My company's solicitation/direct mail advertisement contains most of the information on the front page, but the information required by the regulation appears on the back of the page. Does that meet the requirement that disclosures be made "clearly and conspicuously?"

Answer: According to 10 VAC 5-160-60 H, "clearly and conspicuously" means that a required disclosure is "reasonably understandable, prominently located, and readily noticeable by a potential borrower of ordinary intelligence." It is the Bureau's opinion that disclosures appearing on the back of a page and/or in less that 10-point type would generally not be considered "prominently located" or "readily noticeable". However, if the front of the solicitation includes a clear and conspicuous statement referencing the location of the required disclosures, the requirement will be met. (For example: PLEASE SEE IMPORTANT DISCLOSURES REQUIRED BY VIRGINIA LAW ON THE BACK OF THIS LETTER)

IMPORTANT COMMISSION TELEPHONE NUMBERS

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

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

Consumer Complaints…..(804) 371-9705

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

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

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

IMPORTANT REGULATORY INFORMATION ENCLOSED!

The Compliance Connection

Regulatory news for Virginia mortgage and consumer finance companies
State Corporation Commission - Bureau of financial institutions

Fall 2006

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 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 bfiquestions@scc.virginia.gov.

Inside this Issue:

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Are You Ready???

It's Monday morning and you have just poured your second cup of coffee when a stranger walks into your office and says, "Good Morning. I am an examiner with the Bureau of Financial Institutions and I am here to conduct an examination of your Virginia records." So now what?

The law requires that the Commission conduct examinations of mortgage and consumer finance licensees at least once in every three year period, *or as often as deemed necessary*. Examinations are not required to be scheduled with a licensee in advance, although appointments may be made in some circumstances (generally examinations that are conducted out of state or at a licensee's home).

Licensees should develop internal procedures concerning state examinations and make sure all staff members are aware of what must be done to facilitate the examination process. Virginia law also requires that licensees afford full access to all premises, books, records and information that the examiner deems necessary. Attempts to prevent the examiner from conducting the examination may lead to a monetary fine, license suspension or revocation. Licensees must complete a questionnaire which will be provided by the examiner upon arrival, or if notified in advance of the examination, prior to the date of the examination. It is imperative that the questionnaire be completed while the examiner is in the office and that all referenced attachments are included. In the case of mortgage licensees, failure to respond to inquiries by Bureau staff within the time frame requested can also lead to regulatory action (see Virginia Regulation 10 VAC 5-160-50).

Examiner's schedules are often set months in advance of an examination and are typically scheduled to coincide with another examination in the same general location. It is unlikely that the examiner will be able to reschedule the examination to accommodate a licensee's schedule. Examiners have reported situations where they are told that the examination cannot be done because the owner or manager is not available. This is why it is important to make sure there is more than one person who can work with an examiner to complete this examination process. (continued on page 4)

Underwriting Fees Charged by Brokers

The Bureau has found instances where mortgage brokers are collecting and retaining underwriting fees from borrowers. It is the Bureau's understanding that mortgage brokers rarely, if ever, underwrite mortgage loans. Accordingly, unless a mortgage broker can satisfactorily demonstrate that it is actually underwriting mortgage loans pursuant to delegated underwriting authority from a lender, it is the Bureau's view that the mortgage broker is retaining fees that are imposed for services performed by a third party in violation of Virginia Regulation 10 VAC 5-160-20 (2). If a mortgage broker collects an underwriting fee on behalf of a lender and can document that the entire fee was forwarded to the lender, the Bureau will not cite a violation.

Please note: Underwriting fees shall not be charged to borrowers by any party in connection with a subordinate loan unless the lender is an entity described in §6.1-330.73 of the Code of Virginia.

Advertising Rules Governing Mortgage Lenders and Brokers

Since the amended rules governing mortgage lenders and mortgage brokers went into effect September 1, 2006, the Bureau has reviewed numerous advertisements for compliance, many of which (particularly direct mail solicitations) contain violations of the new advertising rules (Virginia Regulation 10 VAC 5-160-60). Common violations include the licensee's failure to clearly and conspicuously disclose on their advertisements the licensee's name (as shown on the license), the license number and the statement that the mortgage lender or broker is licensed by the "Virginia State Corporation Commission." In addition, many advertisements continue to be in violation of the Truth in Lending Act (TILA) and Regulation Z. One of the most common violations we see with respect to advertisements is the failure to disclose (or conspicuously disclose) the annual percentage rate (APR) on an advertisement that states an annual interest rate. Under TILA, the disclosure of an interest rate in an advertisement triggers the requirement to also disclose the corresponding APR.

Other advertisements recently reviewed contained misleading or deceptive information. An example of this came from a consumer complaint in which the direct mailing received by the consumer had the message "official business" on the envelope and a return address on Pennsylvania Avenue, Washington DC. In addition to violating 10 VAC 5-160-60 B relating to the making of misleading statements or misrepresentations, it is the Bureau's opinion that the use of this message, particularly in conjunction with a return address on Pennsylvania Avenue, conveys the false impression that the mailing is an official communication from a governmental entity, in violation of 10 VAC 5-160-60 E.

Some direct mail solicitations reviewed included a statement that a consumer may be eligible for an interest rate *and payment* reduction but did not contain the disclosure statement specified in 10 VAC 5-160-60 F that as a result of such refinancing, the consumer's total finance charges may be higher over the life of the loan. It is the Bureau's position that such statement must be disclosed unless the licensee knows for certain that the total finance charges will not be higher over the life of the loan.

The State Corporation Commission took a number of measures (including a seminar held in July 2006) to make sure licensees were aware of the revised regulations. While many mortgage licensees are in compliance, we are dismayed to see that many companies have not taken the necessary steps to comply with the amended rules. It is important that mortgage licensees review these new regulations and implement policies and procedures to ensure compliance with the amended rules or risk being the subject of regulatory action (e.g., fine, license suspension, license revocation) pursuant to §§ 6.1-425 and 6.1-428 of the Code of Virginia.

§6.1-422 B(5) & C Still in Effect

We frequently receive inquiries regarding § 6.1-422 C of the Code of Virginia. This section prohibits a mortgage broker from receiving compensation for negotiating, placing or finding a mortgage loan where the mortgage broker, or any person affiliated with the mortgage broker, has or will receive compensation for acting as a real estate broker, agent or salesman in connection with the sale of real estate that secures the loan, ***unless*** the mortgage broker was licensed by the Commission prior to February 25, 1989. If the mortgage broker was licensed prior to this date, the prohibition does not apply as long as the proper disclosure is given in writing to the borrower at the time the mortgage broker's services are first offered to the borrower (see "Notice" under §6.1-422 B (5)).

For purposes of this section, an "affiliated person of a mortgage broker" means any person which is a subsidiary, stockholder, partner, trustee, director, officer or employee of a mortgage broker, and any corporation ten percent or more of the capital stock of which is owned by a mortgage broker or by any person which is a subsidiary, stockholder, partner, trustee, director, officer or employee of a mortgage broker.

License Update

The following is a list of companies that have surrendered their license, had their license revoked, had an application denied, or been fined by the Commission since August 15, 2006. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of November 15, 2006. 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/division/banking/vamortgagelist**.

Mortgage Licenses Surrendered

MLB – 387 Fed Funding Mortgage Corporation – 8/15/06

MB – 2104 Capetown Mortgage Corp – 8/19/06

MLB – 694 Genisys Financial Corp – 8/21/06

MLB – 637 Premier Mortgage Company, LLC – 8/28/06

MLB – 756 Molton, Allen & Williams Mortgage Company, L.L.C. – 9/1/06

MLB – 855 UBS Mortgage LLC - 9/1/06

MLB – 841 Prosperity Mortgage Company – 9/1/06

MLB – 231 Home Security Mortgage Corp. d/b/a LoanWhiz.Com – 9/5/06

MB – 1493 Chesapeake Mortgage Services, Inc. – 9/14/06

MB – 2852 HPC Funding, Inc. d/b/a Home Professional Comprehensive Funding – 9/20/06

MLB – 850 BMIC Mortgage, Inc. - SURRENDERED ITS LENDER AUTHORITY ONLY 9/25/06 – NOW LICENSED AS MB-3662

MLB – 426 Aames Funding Corporation d/b/a Aames Home Loan – 10/1/06

MLB – 874 Service 1 Mortgage Corporation – SURRENDERED ITS LENDER AUTHORITY ONLY 10/6/06 – NOW LICENSED AS MB - 3674

MB – 1928 1st Atlas Mortgage Corporation – 10/4/06

MB – 2976 Easthampton Mortgage Company, Inc. – 10/11/06

MB – 2389 Everest Financial, LLC – 10/16/06

MLB – 1182 Contractor Loan Center LLC - SURRENDERED ITS LENDER AUTHORITY ONLY 10/19/06 – NOW LICENSED AS MB - 3724

MB – 1672 Advantage Mortgage Services, Inc. – 10/23/06

MLB – 737 Arisen Mortgage Corporation – 10/24/06

MB – 2106 Optimal Funding, Inc. – 10/26/06

MB – 2769 Diversified Marketing Solutions, Inc. d/b/a All Credit Funding – 10/31/06

MLB–961 Optimum Mortgage Group, LLC – 11/1/06

ML – 462 Residential Mortgage Corp. – 11/2/06

MB – 1150 Robert H. Turley t/a Turbo Financial Services – 11/2/06

MB – 2977 Home Funding Solutions, Inc. – 11/6/06

ML – 500 JLM Direct Funding Limited Partnership (Used in VA by: JLM Direct Funding, Ltd.) – 11/13/06

Mortgage Licenses Denied

MLB – 1327 Zero Down Mortgage Solutions, Inc. – 8/23/06

MB - 3238 Hammer Specialty Foods, Inc. – 10/13/06

Mortgage Licenses Revoked

MB – 3021 Arrow Service Corporation – revoked 9/18/06 for failure to maintain a surety bond in violation of §6.1-413 of the Code of Virginia

MB – 2214 Elend Mortgage, LLC– revoked 9/18/06 for failure to maintain a surety bond in violation of §6.1-413 of the Code of Virginia

Fines Paid by Mortgage Licensees

MB – 2030 Global Mortgage, Inc. – entered into a settlement on 11/3/06 and paid $2,500 for failing to respond to a consumer complaint despite numerous requests by the Bureau

MLB – 1063 Network Funding, L.P. – entered into a settlement on 11/14/06 and paid $500 for relocating an office without applying for and obtaining prior Commission approval

(Continued on next page)

Fines Paid by Mortgage Licensees (continued from page 3)

The following licensees entered into settlements on November 14, 2006 for failing to file the annual report by March 1, 2006, as required by § 6.1-418 of the Code of Virginia:

MB – 2891 1st City Lending Inc d/b/a First City Mortgage - $500

MB – 3015 American Mortgage Group Inc., A Corporation of North Carolina (Used in VA by: American Mortgage Group, Inc.) - $800

MB – 3340 Berwyn Mortgage, Inc. - $800

MB – 2512 Brooks Financial Group, LLC - $800

MB – 1698 Capital Financial Associates, Inc. d/b/a CFA Mortgage - $800

ML – 682 Classic Home Lending, Inc. - $500

MLB – 901 Commonwealth Home Loans, LLC - $800

MB – 2718 E-Star Lending, Inc. - $800

ML – 523 Flick Mortgage Investors, Inc. - $500

MLB – 1141 Granger Mortgage Corporation - $500

MLB – 1219 Guaranteed Rate, Inc. - $800

MB – 2913 HomeSouth Mortgage Services, Inc. - $500

MB – 3059 Investors Capital LLC of Virginia (Used in VA by: Investors Capital LLC) - $800

MB – 1563 Loans and Mortgages, LLC - $500

MB - 2677 The Mortgage Equities Group, LLC d/b/a My-Loan1st - $800

MB – 2094 Montgomery Capital Mortgage Corporation (Used in VA by: Montgomery Capital Corporation) - $500

MB – 2824 Mutual Funding MY, Inc. (Used in VA by: Mutual Funding, Inc.) - $800

MB – 2792 Nations Lending Corporation of Ohio (Used in VA by: Nations Lending Corporation) - $500

MLB – 1098 North Atlantic Mortgage Corporation - $500

MB – 2444 OneStop Shopping Financial, Inc. - $500

MB – 2695 Reliance Funding Services, Inc. - $500

MB – 2285 Resicom Funding, Inc. - $800

MLB – 591 Residential Lending Corporation - $500

MLB – 886 T&B Mortgage Corporation - $500

MB – 2325 United Freedom Funding Corp. - $500

MB – 2637 United Mutual Funding Corp. - $500

MLB – 1083 USA Home Loans, Inc. - $800

ML – 542 UVEST Mortgage Services, LLC - $800

MB – 2092 Virginia Mutual Mortgage Corporation - $500

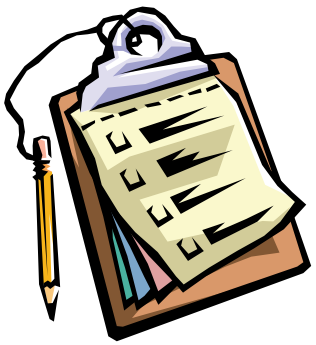
MB – 2360 Your Mortgage Company, LLC - $800

Other Fines Paid

Bahman Ardalan – entered into a settlement on 9/14/06 and paid $1,000 for failing to obtain Commission approval prior to obtaining 50% of the stock of Aring Corporation d/b/a Allstate Home Mortgage (MB - 1998), in violation of §6.1-416.1 of the Code of Virginia

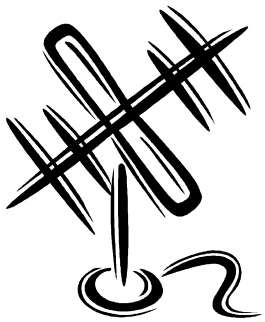
Are You Ready???

(continued from page 1)



The following items should be included in a licensee's examination procedure:

- Provide the examiner with adequate work space, access to a telephone and copy machine;
- Introduce examiner to key personnel in the office who can assist and who will be available to answer questions that may arise;
- Show examiner where loan files (in process, closed, paid, withdrawn, denied) are stored;
- Provide the examiner with a copy of the previous Virginia examination report and licensee's response to the report (if applicable);
- Provide the examiner with blank copies of licensee's forms (e.g., "Virginia" disclosure, contract for compensation, lock-in and/or commitment agreement, prequalification disclosure and sample copies of advertisements, etc.);
- Complete the Bureau's questionnaire before the examiner leaves the office and include all attachments referenced in licensee's responses.



Wire Fees

Examiners report instances of mortgage licensees "upcharging" bank wire fees. Please note that Virginia Regulation 10 VAC 5-160-20 (2) prohibits licensees from retaining any portion of any fee or charge imposed upon consumers for goods or services provided by third parties. Licensees are not allowed to collect any amount above the actual cost of such third-party fee. The regulation also requires the retention of adequate documentation of the services for which such fees were paid (i.e.: copy of bill, invoice).

Note: Section 6.1-330.72 of the Code of Virginia prohibits the collection of wire fees from borrowers in connection with subordinate mortgage loans (unless the lender is exempt under § 6.1-330.73).

Mortgage and Consumer Finance Licensees: Annual Reports

Mortgage lenders and/or brokers and consumer finance companies licensed by the State Corporation Commission are each required to file an annual report with the Bureau. These reports pertain to the licensed business conducted and should not be confused with the corporate annual report (filed with the Office of the Clerk) required of corporations. The Bureau's annual report forms are being mailed to licensees in December 2006; however, copies of each type of annual report form are also available on the Bureau's Web site at: www.scc.virginia.gov/division/banking/vareport.

The due dates for the annual reports are as follows: Mortgage Annual Report - due by March 1, 2007; Consumer Finance Annual Report - due by April 1, 2007.

Common tips for filing annual reports:

1) Strictly follow the instructions for each report. If you need assistance, call the individuals listed below;

2) File the report in duplicate;

3) Make sure the report is complete, signed by a senior officer of the licensee, and notarized;

4) Do not send money with the report. Assessments will be mailed to mortgage licensees by April 25, 2007 and to consumer finance licensees by May 1, 2007, with payment due within 30 days thereafter.

5) Do not report business that is not conducted pursuant to the license granted, unless specifically requested. (For example, mortgage licensees should only report loans made to individuals who will use the proceeds primarily for personal, family or household purposes and which loans are secured by a deed of trust on any interest in one to four family, residential, owner-occupied property located in the Commonwealth);

6) Attach a financial report (audited, if available) for the licensee, including a balance sheet and income statement. (Each consumer finance licensee should also include a financial report, audited if available, for its parent company.) If audited reports are not available by the deadline, indicate with the submission of the annual report the date that the audited financial statement is expected to be filed;

Submit the report to the Bureau by the deadline. The statutes governing the filing of the reports do not provide for extensions of time. Failure to file the annual report by the due date may result in regulatory action (fines or revocation of license).

Annual reports are processed by the Bureau's Corporate Structure and Research Section. For questions regarding annual reports filed by mortgage companies, contact Robert Mednikov at (804) 371-9692. For questions regarding annual reports filed by consumer finance companies, contact Karen Heede at (804) 371-9372. General questions may also be directed to (804) 371-9690.

IMPORTANT COMMISSION TELEPHONE NUMBERS

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

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

Consumer Complaints…..(804) 371-9705

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

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

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

IMPORTANT REGULATORY INFORMATION ENCLOSED!

13. Safeguards Rule

BUSINESS
ftc.gov
For The Consumer
Federal Trade Commission
1-877-FTC-HELP

FTC FACTS for Business

Financial Institutions and Customer Information:

Complying with the Safeguards Rule

Many companies collect personal information from their customers, including names, addresses, and phone numbers; bank and credit card account numbers; income and credit histories; and Social Security numbers. The Gramm-Leach-Bliley (GLB) Act requires companies defined under the law as "financial institutions" to ensure the security and confidentiality of this type of information. As part of its implementation of the GLB Act, the Federal Trade Commission (FTC) issued the Safeguards Rule, which requires financial institutions under FTC jurisdiction to have measures in place to keep customer information secure. But safeguarding customer information isn't just the law. It also makes good business sense. When you show customers you care about the security of their personal information, you increase their confidence in your company. The Rule is available at www.ftc.gov/privacy/privacyinitiatives/safeguards_l&r.html.

WHO MUST COMPLY?

The definition of "financial institution" includes many businesses that may not normally describe themselves that way. In fact, the Rule applies to all businesses, regardless of size, that are "significantly engaged" in providing financial products or services. This includes, for example, check-cashing businesses, payday lenders, mortgage brokers, nonbank lenders, personal property or real estate appraisers, professional tax preparers, and courier services. The Safeguards Rule also applies to companies like credit reporting agencies and ATM operators that receive information about the customers of other financial institutions. In addition to developing their own safeguards, companies covered by the Rule are responsible for taking steps to ensure that their affiliates and service providers safeguard customer information in their care.

For more information on whether the Safeguards Rule applies to your company, consult section 313.3(k) of the GLB Privacy Rule and the Financial Activities Regulations. Both are available at www.ftc.gov/privacy/privacyinitiatives/financial_rule_l&r.html.

HOW TO COMPLY

The Safeguards Rule requires companies to develop a written information security plan that describes their program to protect customer information. The plan must be appropriate to the company's size and complexity, the nature and scope of its activities, and the sensitivity of the customer information it handles. As part of its plan, each company must:

✓ designate one or more employees to coordinate its information security program;

- ✓ identify and assess the risks to customer information in each relevant area of the company's operation, and evaluate the effectiveness of the current safeguards for controlling these risks;
- ✓ design and implement a safeguards program, and regularly monitor and test it;
- ✓ select service providers that can maintain appropriate safeguards, make sure your contract requires them to maintain safeguards, and oversee their handling of customer information; and
- ✓ evaluate and adjust the program in light of relevant circumstances, including changes in the firm's business or operations, or the results of security testing and monitoring.

The requirements are designed to be flexible. Companies should implement safeguards appropriate to their own circumstances. For example, some companies may choose to put their safeguards program in a single document, while others may put their plans in several different documents — say, one to cover an information technology division and another to describe the training program for employees. Similarly, a company may decide to designate a single employee to coordinate safeguards or may assign this responsibility to several employees who will work together. In addition, companies must consider and address any unique risks raised by their business operations — such as the risks raised when employees access customer data from their homes or other off-site locations, or when customer data is transmitted electronically outside the company network.

SECURING INFORMATION

The Safeguards Rule requires companies to assess and address the risks to customer information in all areas of their operation, including three areas that are particularly important to information security: *Employee Management and Training; Information Systems;* and *Detecting and Managing System Failures*. One of the early steps companies should take is to determine what information they are collecting and storing, and whether they have a business need to do so. You can reduce the risks to customer information if you know what you have and keep only what you need.

Depending on the nature of their business operations, firms should consider implementing the following practices:

Employee Management and Training. The success of your information security plan depends largely on the employees who implement it. Consider:

- ✓ Checking references or doing background checks before hiring employees who will have access to customer information.
- ✓ Asking every new employee to sign an agreement to follow your company's confidentiality and security standards for handling customer information.
- ✓ Limiting access to customer information to employees who have a business reason to see it. For example, give employees who respond to customer inquiries access to customer files, but only to the extent they need it to do their jobs.
- ✓ Controlling access to sensitive information by requiring employees to use "strong" passwords that must be changed on a regular basis. (Tough-to-crack passwords require the use of at least six characters, upper- and lower-case letters, and a combination of letters, numbers, and symbols.)
- ✓ Using password-activated screen savers to lock employee computers after a period of inactivity.
- ✓ Developing policies for appropriate use and protection of laptops, PDAs, cell phones, or other mobile devices. For example, make sure employees store these devices in a secure place when not in use. Also, consider that customer information in encrypted files will be better protected in case of theft of such a device.
- ✓ Training employees to take basic steps to maintain the security, confidentiality, and integrity of customer information, including:
  - Locking rooms and file cabinets where records are kept;

- Not sharing or openly posting employee passwords in work areas;
- Encrypting sensitive customer information when it is transmitted electronically via public networks;
- Referring calls or other requests for customer information to designated individuals who have been trained in how your company safeguards personal data; and
- Reporting suspicious attempts to obtain customer information to designated personnel.

✓ Regularly reminding all employees of your company's policy — and the legal requirement — to keep customer information secure and confidential. For example, consider posting reminders about their responsibility for security in areas where customer information is stored, like file rooms.

✓ Developing policies for employees who telecommute. For example, consider whether or how employees should be allowed to keep or access customer data at home. Also, require employees who use personal computers to store or access customer data to use protections against viruses, spyware, and other unauthorized intrusions.

✓ Imposing disciplinary measures for security policy violations.

✓ Preventing terminated employees from accessing customer information by immediately deactivating their passwords and user names and taking other appropriate measures.

Information Systems. Information systems include network and software design, and information processing, storage, transmission, retrieval, and disposal. Here are some suggestions on maintaining security throughout the life cycle of customer information, from data entry to data disposal:

✓ Know where sensitive customer information is stored and store it securely. Make sure only authorized employees have access. For example:

- Ensure that storage areas are protected against destruction or damage from physical hazards, like fire or floods.
- Store records in a room or cabinet that is locked when unattended.
- When customer information is stored on a server or other computer, ensure that the computer is accessible only with a "strong" password and is kept in a physically-secure area.
- Where possible, avoid storing sensitive customer data on a computer with an Internet connection.
- Maintain secure backup records and keep archived data secure by storing it off-line and in a physically-secure area.
- Maintain a careful inventory of your company's computers and any other equipment on which customer information may be stored.

✓ Take steps to ensure the secure transmission of customer information. For example:

- When you transmit credit card information or other sensitive financial data, use a Secure Sockets Layer (SSL) or other secure connection, so that the information is protected in transit.
- If you collect information online directly from customers, make secure transmission automatic. Caution customers against transmitting sensitive data, like account numbers, via email or in response to an unsolicited email or pop-up message.
- If you must transmit sensitive data by email over the Internet, be sure to encrypt the data.

✓ Dispose of customer information in a secure way and, where applicable, consistent with the FTC's Disposal Rule, www.ftc.gov/os/2004/11/041118disposalfrn.pdf. For example:

- Consider designating or hiring a records retention manager to supervise the disposal of records containing customer information. If you hire an outside disposal company, conduct due diligence beforehand by checking references or requiring that the company be certified by a recognized industry group.
- Burn, pulverize, or shred papers containing customer information so that the information cannot be read or reconstructed.

- Destroy or erase data when disposing of computers, disks, CDs, magnetic tapes, hard drives, laptops, PDAs, cell phones, or any other electronic media or hardware containing customer information.

Detecting and Managing System Failures. Effective security management requires your company to deter, detect, and defend against security breaches. That means taking reasonable steps to prevent attacks, quickly diagnosing a security incident, and having a plan in place for responding effectively. Consider implementing the following procedures:

✓ Monitoring the websites of your software vendors and reading relevant industry publications for news about emerging threats and available defenses.

✓ Maintaining up-to-date and appropriate programs and controls to prevent unauthorized access to customer information. Be sure to:

- check with software vendors regularly to get and install patches that resolve software vulnerabilities;
- use anti-virus and anti-spyware software that updates automatically;
- maintain up-to-date firewalls, particularly if you use a broadband Internet connection or allow employees to connect to your network from home or other off-site locations;
- regularly ensure that ports not used for your business are closed; and
- promptly pass along information and instructions to employees regarding any new security risks or possible breaches.

✓ Using appropriate oversight or audit procedures to detect the improper disclosure or theft of customer information. It's wise to:

- keep logs of activity on your network and monitor them for signs of unauthorized access to customer information;
- use an up-to-date intrusion detection system to alert you of attacks;
- monitor both in- and out-bound transfers of information for indications of a compromise, such as unexpectedly large amounts of data being transmitted from your system to an unknown user; and
- insert a dummy account into each of your customer lists and monitor the account to detect any unauthorized contacts or charges.

✓ Taking steps to preserve the security, confidentiality, and integrity of customer information in the event of a breach. If a breach occurs:

- take immediate action to secure any information that has or may have been compromised. For example, if a computer connected to the Internet is compromised, disconnect the computer from the Internet;
- preserve and review files or programs that may reveal how the breach occurred; and
- if feasible and appropriate, bring in security professionals to help assess the breach as soon as possible.

✓ Considering notifying consumers, law enforcement, and/or businesses in the event of a security breach. For example:

- notify consumers if their personal information is subject to a breach that poses a significant risk of identity theft or related harm;
- notify law enforcement if the breach may involve criminal activity or there is evidence that the breach has resulted in identity theft or related harm;
- notify the credit bureaus and other businesses that may be affected by the breach. See Information Compromise and the Risk of Identity Theft: Guidance for Your Business at www.ftc.gov/bcp/edu/pubs/business/idtheft/bus59.htm; and
- check to see if breach notification is required under applicable state law.

FOR MORE INFORMATION

Additional guidance is available at www.ftc.gov/privacy/glbact. Resources at that site may alert you to new risks to information security and give people whose information may have been compromised important first-things-first advice for responding. Visit www.onguardonline.gov for information that can help you train your employees in safe computing practices on the job and at home. In addition, the following organizations have information to help you implement appropriate safeguards for your customer data:

Computer Security Resource Center
National Institute for Standards and Technology (NIST)
www.csrc.nist.gov

National Strategy to Secure Cyberspace, Department of Homeland Security
www.dhs.gov/dhspublic/display?theme=31&content=935

The SysAdmin, Audit, Network, Security (SANS) Institute
The Twenty Most Critical Internet Security Vulnerabilities
www.sans.org/top20

United States Computer Emergency Readiness Team (US CERT)
www.us-cert.gov/resources.html

Carnegie Mellon Software Engineering Institute CERT Coordination Center
www.cert.org/other_sources

The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit www.ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

OPPORTUNITY TO COMMENT

The Small Business and Agriculture Regulatory Enforcement Ombudsman and ten Regional Fairness Boards collect comments from small business about federal enforcement actions. Each year, the Ombudsman evaluates enforcement activities and rates each agency's responsiveness to small business. To comment on FTC actions, call 1-888-734-3247.

April 2006

FEDERAL TRADE COMMISSION	ftc.gov
1-877-FTC-HELP	FOR THE CONSUMER

Federal Trade Commission
Bureau of Consumer Protection
Office of Consumer and Business Education

14. Revised Regulations effective September 1, 2006 (10-VAC-5-160-10 through 10-VAC-160-30, 10-VAC-5-160-60)

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 24, 2006

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2005-00012

Ex Parte: In re: proposed mortgage lender
and mortgage broker regulations

ORDER ADOPTING REGULATIONS

By Order entered in this case on February 11, 2005, the State Corporation Commission ("Commission") directed that notice be given of the Bureau of Financial Institutions' proposal to amend the Commission's Rules Governing Mortgage Lenders and Brokers, 10 VAC 5-160-10 et seq. of the Virginia Administrative Code. The Order and proposed amendments were published in the Virginia Register on March 7, 2005, posted on the Commission's website, and mailed to all licensees under the Mortgage Lender and Broker Act ("the Act"), § 6.1-408 et seq. of the Code of Virginia, and other interested persons. All interested persons were afforded an opportunity to file written comments and request a hearing.

Numerous written comments were filed but no request for a hearing was received. On April 25, 2005, the Commission entered an Order Directing Response to Comments, which required the Bureau of Financial Institutions ("Bureau") to file a response to the comments received on or before June 17, 2005. The Bureau filed its Response to Comments, which was delivered to all commenters. On July 12, 2005, the Commission entered an Order Permitting Further Responses, which authorized all commenters to file a reply to the Bureau's Response on or before August 26, 2005. Several of the commenters filed such a reply.

On January 17, 2006, the Commission entered an Order to Take Notice of modified proposed amended regulations and offered all interested persons an opportunity to file written

comments and request a hearing. The Order and modified proposed amended regulations were published in the Virginia Register on February 6, 2006, posted on the Commission's website, and mailed to all licensees under the Act. The Commission received eight comment letters addressing the modified proposed amended regulations but no requests for a hearing.

We have carefully considered the comments of interested persons and the Bureau. In response to such comments, we note that the final version of the regulations that we promulgate today, to be effective September 1, 2006, contains substantial and significant changes from the version initially proposed in the Order to Take Notice that was entered on February 11, 2005, many of which changes were in direct response to comments filed with the Commission.

NOW THE COMMISSION, having considered the record, the modified proposed amended regulations, and all of the comments, responses and replies filed in this case, concludes that the modified proposed amended regulations should be adopted with certain changes to 10 VAC 5-160-20. The Commission further concludes that the effective date of the regulations should be delayed in order to allow licensees a reasonable period of time to modify their practices to conform to the regulations.

THEREFORE, IT IS ORDERED THAT:

(1) The attached regulations, 10 VAC 5-160-10 et seq., are adopted effective September 1, 2006.

(2) The regulations shall be posted on the Commission's website at http://www.scc.virginia.gov/caseinfo.htm.

(3) An attested copy hereof, together with a copy of the regulations, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

(4) This case is dismissed from the Commission's docket of active cases.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order, together with the regulations, to all licensed mortgage lenders and mortgage brokers and such other interested parties as he may designate.

CHAPTER 160

RULES GOVERNING MORTGAGE LENDERS AND BROKERS

10 VAC 5-160-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Advertisement" means a commercial message in any medium that promotes, directly or indirectly, a mortgage loan. The term includes a communication sent to a consumer as part of a solicitation of business, but excludes messages on promotional items such as pens, pencils, notepads, hats, calendars, etc., as well as rate sheets or other information distributed or made available solely to other businesses.

"Affiliate" for purposes of subdivision 3 of § 6.1-411 of the Code of Virginia means an entity of which 25% or more of the voting shares or ownership interest is held, directly or indirectly, by a company that also owns a bank, savings institution, or credit union.

"Commission" and "commissioner" shall have the meanings ascribed to them in § 6.1-409 of the Code of Virginia.

"Commitment" means a written offer to make a mortgage loan signed by a ~~mortgage lender, or by another~~ person authorized to sign such ~~instruments~~ offers on behalf of a mortgage lender.

"Commitment agreement" means a commitment accepted by an applicant for a mortgage loan, as evidenced by the applicant's signature thereon.

"Commitment fee" means any fee or charge accepted by a mortgage lender, or by a mortgage broker for transmittal to a mortgage lender, as consideration for binding the mortgage lender to make a mortgage loan in accordance with the terms of ~~the~~ a commitment or as a requirement for acceptance by the applicant of a commitment, but the term does not include fees paid to third persons or interest.

"Fees paid to third persons" means the bona fide fees or charges paid by the applicant for a mortgage loan to third persons other than the mortgage lender or mortgage broker, or paid by the applicant to, or retained by, the mortgage lender or mortgage broker for transmittal to such third persons in connection with the mortgage loan, including, but not limited to, recording taxes and fees, reconveyance or releasing fees, appraisal fees, credit report fees, attorney fees, fees for title reports and title searches, title insurance premiums, surveys and similar charges.

"Lock-in agreement" means a written agreement between a mortgage lender, or a mortgage broker acting on behalf of a mortgage lender, and an applicant for a mortgage loan ~~which~~ that establishes and sets an interest rate and the points to be charged in connection with a mortgage loan that is closed within the time period specified in the agreement. A lock-in agreement can be entered into before mortgage loan approval, subject to the mortgage loan being approved and closed, or after such approval. A commitment agreement ~~which~~ that establishes and sets an interest rate and the points to be charged in connection with a mortgage loan that is closed within the time period specified in the agreement is also a lock-in agreement. The interest rate that is established and set by the agreement may be either a fixed rate or an adjustable rate.

"Lock-in fee" means any fee or charge accepted by a mortgage lender, or by a mortgage broker for transmittal to a mortgage lender, as consideration for making a lock-in agreement, but the term does not include fees paid to third persons or interest.

"Mortgage lender," "mortgage broker," and "mortgage loan" shall have the ~~meaning~~ meanings ascribed to them in § 6.1-409 of the Code of Virginia.

"Points" means any fee or charge retained or received by a mortgage lender or mortgage broker stated or calculated as a percentage or fraction of the principal amount of the loan, other than or in addition to fees paid to third persons or interest.

"Reasonable period of time" means that period of time, determined by a mortgage lender in good faith on the basis of its most recent relevant experience and other facts and circumstances known to it, within which the mortgage loan will be closed.

"Subsidiary" for purposes of subdivision 3 of § 6.1-411 of the Code of Virginia means an entity of which 25% or more of the voting shares or ownership interest is held, directly or indirectly, by a bank, savings institution, or credit union.

10 VAC 5-160-20. Operating rules.

A licensee shall conduct its business in accordance with the following rules:

1. No licensee shall ~~intentionally~~ misrepresent the qualification requirements for a mortgage loan or any material loan terms or make false ~~promises~~ or misleading statements to induce an applicant to apply for a mortgage loan or to induce an applicant to enter into any commitment agreement or lock-in agreement or to induce an applicant to pay any commitment fee or lock-in

fee in connection therewith. A "material loan term" means the loan terms required to be disclosed to a consumer pursuant to (i) the ~~federal Truth-in-Lending~~ Truth in Lending Act (15 USC §§ 1601~~-1647~~ et seq.), and regulations and official commentary issued thereunder, as amended from time to time, (ii) § 6.1-2.9:5 of the Code of Virginia, and (iii) 10 VAC 5-160-30 ~~of this chapter~~. A misrepresentation or false or misleading statement resulting directly from incorrect information furnished to a licensee by a third party [, or a good-faith misunderstanding of information furnished by a third party,] shall not be considered a violation of this section if the licensee has supporting documentation thereof and the licensee's reliance thereon was reasonable.

2. No licensee shall retain any portion of any fees or charges imposed upon consumers for goods or services provided by third parties. All moneys received by a licensee from an applicant for fees paid to third persons shall be accounted for separately, and all disbursements for fees paid to third persons shall be supported by adequate documentation of the services for which such fees were or are to be paid. All such moneys shall be deposited in an escrow account in a bank, savings institution, or credit union segregated from other funds of the licensee.

3. The mortgagor who obtains a mortgage loan shall be entitled to continue to make payments to the transferor of the servicing rights under a mortgage loan until the mortgagor is given written notice of the transfer of the servicing rights by the transferor. The notice shall specify the name and address to which future payments are to be made and shall be mailed or delivered to the mortgagor at least 10 calendar days before the first payment affected by the notice.

4. If a person has been or is engaged in business as a mortgage lender or mortgage broker and has filed a bond ~~or letter of credit~~ with the commissioner, as required by § 6.1-413 of the Code of

Virginia, such bond ~~or letter of credit~~ shall be retained by the commissioner notwithstanding the occurrence of any of the following events:

a. The person's application for a license is withdrawn or denied;

b. The person's license is surrendered, suspended, or revoked; or

c. The person ceases engaging in business as a mortgage lender or mortgage broker.

5. Within 15 days of becoming aware of the occurrence of any of the following events, a licensed mortgage lender or mortgage broker shall file a written report with the commissioner describing such event and its expected impact, if any, on the activities of the licensee in the Commonwealth:

a. The licensee files for bankruptcy or reorganization.

b. Any governmental authority institutes revocation or suspension proceedings against the licensee, or revokes or suspends a mortgage-related license held or formerly held by the licensee.

c. Any governmental authority takes (i) formal ~~or informal~~ regulatory or enforcement action against the licensee relating to its mortgage business or (ii) any other action against the licensee relating to its mortgage business where the total amount of restitution or other payment from the licensee exceeds $20,000. A licensee shall not be required to provide the commissioner with information about such event to the extent that such disclosure is prohibited by the laws of another state.

d. Based on allegations by any governmental authority that the licensee violated any law or regulation applicable to the conduct of its licensed mortgage business, the licensee enters into, or

otherwise agrees to the entry of, a settlement or consent order, decree, or agreement with or by such governmental authority.

e. The licensee surrenders its license to engage in any mortgage-related business in another state in lieu of threatened or pending license revocation, license suspension, or other regulatory or enforcement action.

f. The licensee is denied a license to engage in any mortgage-related business in another state.

g. The licensee or any of its employees, officers, directors, or principals is indicted for a felony.

h. The licensee or any of its employees, officers, directors, or principals is convicted of a felony.

6. No licensee shall inform a consumer that such consumer has been or will be ~~"approved,"~~ "preapproved~~,~~" or "pre-approved" for a mortgage loan unless ~~a mortgage lender has issued a written commitment, after a comprehensive analysis of the consumer's creditworthiness (including verification of income, resources, and other matters typically done as part of a normal credit evaluation program), which is conditioned solely upon (i) identification of a suitable property, if the subject property has not yet been identified; (ii) no material change in the applicant's financial condition or creditworthiness prior to closing; and (iii) limitations not related to the financial condition or creditworthiness of the applicant that a mortgage lender ordinarily attaches to a traditional mortgage application (such as completion of a home inspection, an acceptable title insurance binder, certification of a clear termite inspection, etc.)~~ the licensee contemporaneously provides the consumer with a separate written disclosure (in at least 10-point type) that (i) explains what preapproved means; (ii) informs the consumer that the consumer's loan application has not yet been approved; (iii) states that a written commitment to make a mortgage loan has not yet been issued; and (iv) advises the consumer what needs to

occur before the consumer's loan application can be approved. This provision shall not apply to advertisements subject to 10 VAC 5-160-60. [In the case of a preapproval initially communicated to a consumer by telephone, the licensee shall provide the written disclosure to the consumer within three business days.]

10 VAC 5-160-30. Commitment agreements and lock-in agreements.

A. A commitment agreement shall include the following:

1. Identification of the property intended to secure the mortgage loan (this does not require a formal legal description);

2. The principal amount and term of the loan;

3. The interest rate and points for the mortgage loan if the commitment agreement is also a lock-in agreement or a statement that the mortgage loan will be made at the mortgage lender's prevailing rate and points for such loans at the time of closing or a specified number of days prior to closing;

4. The amount of any commitment fee and the time within which the commitment fee must be paid;

5. Whether or not funds are to be escrowed and for what purpose;

6. Whether or not private mortgage insurance is required;

7. The length of the commitment period;

8. A statement that if the loan is not closed within the commitment period, the mortgage lender is no longer obligated by the commitment agreement and any commitment fee paid by the applicant will be refunded only under the circumstances set forth in subsection C of this section and such other circumstances as are set forth in the commitment agreement; and

9. Any other terms and conditions of the commitment agreement required by the lender.

B. If a lock-in agreement is issued by a mortgage lender or mortgage broker to a consumer, it shall be signed by a representative of the mortgage lender or mortgage broker and include the following:

1. The interest rate and points for the mortgage loan, and if the rate is an adjustable rate, the initial interest rate and a brief description of the method of determining the rate (such as the index and the margin);

2. The amount of any lock-in fee and the time within which the lock-in fee must be paid;

3. The length of the lock-in period;

4. A statement that if the loan is not closed within the lock-in period, the mortgage lender is no longer obligated by the lock-in agreement and any lock-in fee paid by the applicant will be refunded only under the circumstances set forth in subsection D of this section and such other circumstances as are set forth in the lock-in agreement;

5. A statement that any terms not locked-in by the lock-in agreement are subject to change until the loan is closed at settlement; and

6. Any other terms and conditions of the lock-in agreement required by the mortgage lender or mortgage broker acting on behalf of a mortgage lender.

C. If an applicant has paid any commitment fee, and the mortgage loan is not closed due to any of the following, such commitment fee shall be refunded:

1. The commitment period was not a reasonable period of time given the prevailing market conditions at the time the commitment agreement was entered into;

2. The mortgage loan is turned down because of the applicant's lack of creditworthiness; or

3. The mortgage loan is turned down because of the appraised value of the property intended to secure the mortgage loan~~;~~.

D. If an applicant has paid any lock-in fee and the loan is not closed because the lock-in period was not a reasonable period of time given the prevailing market conditions at the time the lock-in agreement was entered into, such lock-in fee shall be refunded.

E. A mortgage broker shall not issue a lock-in agreement to a consumer unless the mortgage broker has actually locked in the mortgage loan, including the applicable interest rate, points, and other terms, with a mortgage lender. A mortgage broker shall maintain supporting written ~~confirmation~~ documentation from the mortgage lender of all lock-in information for at least three years from the date the lock-in expires.

10 VAC 5-160-60. Advertising.

A. Every advertisement used by, or published on behalf of, a licensed mortgage lender or mortgage broker shall clearly and conspicuously disclose the following information:

1. The name of the mortgage lender or mortgage broker as set forth in the license issued by the commission.

2. A statement that the mortgage lender or mortgage broker is licensed by the "Virginia State Corporation Commission."

3. The license number assigned by the commission to the mortgage lender or mortgage broker (i.e., MB-XXX, ML-XXX, or MLB-XXX).

~~4. If licensed solely as a mortgage broker, a statement that loans are funded by third-party mortgage lenders.~~

~~5.~~ 4. If an advertisement contains a rate of interest, a statement that the stated rate may change or not be available at the time of loan commitment or lock-in.

~~6.~~ 5. If an advertisement contains specific information about a consumer's existing mortgage loan and such information was not obtained from the consumer, a statement identifying the source of such information (e.g., public court records, credit reporting agency, etc.).

B. No mortgage lender or mortgage broker shall deceptively advertise a mortgage loan, make false or misleading statements or representations, or misrepresent the terms, conditions, or charges incident to obtaining a mortgage loan.

C. No mortgage lender or mortgage broker shall use or cause to be published an advertisement that states or implies ~~any of~~ the following:

~~1. A mortgage loan will be funded by a mortgage broker.~~

~~2. A mortgage loan can be approved or closed immediately.~~

~~3.~~ 1. The mortgage lender or mortgage broker is affiliated with, or an agent or division of, a governmental agency, depository institution, or other entity with which no such relationship exists~~.~~; or

~~4.~~ 2. A consumer has been or will be ~~"approved,"~~ "preapproved~~,~~" or "pre-approved" for a mortgage loan, unless ~~a~~ the mortgage lender ~~has issued a written commitment, after a comprehensive analysis of the consumer's creditworthiness (including verification of income, resources, and other matters typically done as part of a normal credit evaluation program), which is conditioned solely upon (i) identification of a suitable property, if the subject property has not yet been identified; (ii) no material change in the applicant's financial condition or creditworthiness prior to closing; and (iii) limitations not related to the financial condition or creditworthiness of the applicant that a mortgage lender ordinarily attaches to a traditional mortgage application (such as completion of a home inspection, an acceptable title insurance binder, certification of a clear termite inspection, etc.)~~ or mortgage broker (i) discloses on the face of the advertisement in at least 14-point bold type that "THIS IS NOT A LOAN APPROVAL" and (ii) clearly and conspicuously discloses the conditions and/or qualifications associated with such preapproval. This provision is intended to supplement the requirements of the Fair Credit Reporting Act, 15 USC § 1681 et seq., relating to firm offers of credit.

D. A mortgage lender or mortgage broker shall not use or cause to be published any advertisement that gives a consumer the false impression that the advertisement is being sent by the consumer's current noteholder or lienholder. If an advertisement contains the name of the consumer's current noteholder or lienholder, it shall not be more conspicuous than the name of the mortgage lender or mortgage broker using the advertisement.

E. A mortgage lender or mortgage broker shall not deliver or cause to be delivered to a consumer any envelope or other written material that gives the false impression that the mailing or written material is an official communication from a governmental entity, unless required by the United States Postal Service.

F. If an advertisement states or implies that a consumer can reduce his monthly payment by refinancing his current mortgage loan, but as a result of such refinancing, the consumer's total finance charges may be higher over the life of the loan, a mortgage lender or mortgage broker shall clearly and conspicuously disclose to the consumer that by refinancing the consumer's existing loan, the consumer's total finance charges may be higher over the life of the loan. ~~For comparison purposes, a mortgage lender or mortgage broker shall assume that the consumer's existing mortgage loan and the proposed mortgage loan remain outstanding until maturity. Total finance charges shall be calculated in accordance with the Truth in Lending Act, 15 USC § 1601 et seq., and Regulation Z, 12 CFR Part 226.~~

G. Every advertisement used by, or published on behalf of, a mortgage lender or mortgage broker shall comply with the disclosure requirements for advertisements contained in the Truth in Lending Act and Regulation Z, 12 CFR Part 226.

H. For purposes of this section, the term "clearly and conspicuously" means that a required disclosure is reasonably understandable, prominently located, and readily noticeable by ~~an average consumer~~ a potential borrower of ordinary intelligence.

~~1. For written advertisements, including web pages, disclosures shall be printed in at least 10-point type in order to be considered readily noticeable. For advertisements consisting of multiple pages, disclosures are deemed to be prominently located if they appear on the first page of the~~

~~advertisement. If the disclosures appear elsewhere, they are deemed to be prominently located if the first page of the advertisement contains a clear and conspicuous reference to the location of the required disclosures and states the following in at least 10-point type: "Please see important disclosures required by Virginia law."~~

~~2. Disclosures that are transmitted by electronic means are evaluated for purposes of the clearly and conspicuously standard based on the form in which they are provided to a consumer, even though they may be viewed by a consumer in a different form.~~

~~3. For television advertisements, disclosures shall appear in a size and for a duration sufficient for them to be easily noticed, read, and understood. For radio advertisements or advertisements communicated by telephone, disclosures shall be spoken so that their contents may be easily understood.~~

I. Every mortgage lender and mortgage broker shall retain for at least three years after it is last published, delivered, transmitted, or made available, ~~a sample~~ an example of every advertisement used, including but not limited to solicitation letters, commercial scripts, and recordings of all radio and television broadcasts, ~~and~~ but excluding copies of Internet web pages ~~and other electronic media~~.