
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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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, 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 borrower(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.

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

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 – 982 Express Mortgage, Inc. – 12/31/01 |
| MB – 480 The Breckinridge Corporation d/b/a
Breckinridge Mortgage – 11/16/01 | MB – 546 Bethesda-Chevy Chase Mortgage
Corporation – 12/31/01 |
| ML – 435 PSP Financial Services, Inc. – 11/20/01 | MB – 1862 Millennium Mortgage Investors,
Inc. d/b/a M.M.I – 12/31/01 |
| MB – 1494 Northampton Mortgage, LLC –
11/28/01 | MB – 1470 Dale A. Gauman d/b/a Cleveland
Mortgage Services – 1/01/02 |
| MLB – 663 CRS Financial Services, Inc. –
11/30/01 | MB – 1644 Pamela Doty Piester d/b/a Mortgage
Advisory Group – 1/01/02 now licensed
as MB-1830 Mortgage Advisory Group,
Inc. |
| ML – 195 Southern Atlantic Financial Services,
Inc. – 12/04/01 | MLB – 585 The Homestead Mortgage
Company d/b/a Homestead USA, Inc. –
1/08/02 |
| MB – 1635 Madison Mortgage & Finance, LLC –
12/07/01 | MLB – 645 Finet.com, Inc. d/b/a Finet.com –
1/11/02 |
| MB – 1646 First Priority Mortgage Corporation –
12/07/01 | MB – 1724 Regal Mortgage Corporation –
1/22/02 |
| MB – 1759 Washington Home Mortgage
Services, Inc. d/b/a Home Mortgage USA –
12/10/01 | MLB – 673 Universal Financial Group, Inc. –
2/4/02 |
| MB – 1154 Residential Professional Mortgage,
LLC – 12/11/01 | MLB – 318 Mortgage Edge Corporation d/b/a
MEC Online – 2/12/02 |
| MB – 1057 Kimberly J. Roberson t/a Middle
America Mortgage – 12/15/01 | MB – 1650 Prime Financial Corp. (used in VA
by Prime Mortgage Corporation) –
2/14/02 |
| MB – 1360 A. Sareen Mortgage Inc. – 12/17/01 | |
| MLB – 531 Stone Castle Financial Inc. –
12/31/01 | |

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
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**IMPORTANT REGULATORY
INFORMATION ENCLOSED!!!**