
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:
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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 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 statutes 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.

$$\$20,000 \text{ (principal)} \times 5\% = \$1,000 \text{ (maximum charge for points/fee)}$$

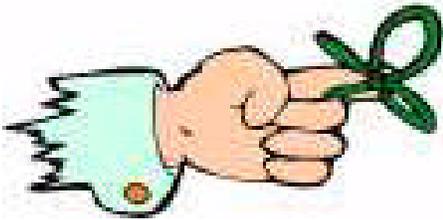
$$\$20,000 + \$1,000 = \$21,000 \text{ loan amount} \quad \text{(continued on next page)}$$

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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 - 958 GUARDHILL FINANCIAL CORP. - 12/31/97
MB - 942 DANIEL P. MATTHEWS AND ROBIN L. MATTHEWS T/A PALY FINANCIAL SERVICES - 12/11/97	MB - 614 DELTA MORTGAGE CORPORATION - 2/6/98
MB - 453 FIRST FINANCIAL FUNDING OF WASHINGTON, INC. - (USED IN VIRGINIA BY FIRST FINANCIAL FUNDING, INC.) - 12/18/97	MB - 79 OLD DOMINION ASSOCIATES, INC. - 1/13/98
MLB - 330 DYNAMICS FINANCIAL, INC. - 12/16/97	MB - 875 COMMUNITY MORTGAGE CORPORATION - 2/06/98
MB - 1062 KAYID SHAWISH D/B/A REAL ESTATE MORTGAGE GROUP - 12/22/97	MB - 734 MORTGAGE INVESTORS, INC. - 2/13/98
ML - 193 REVERSE MORTGAGE OF VIRGINIA, L.C. - 12/23/97	MLB - 274 CENTRAL MONEY MORTGAGE CO., INC. - 2/19/98
MB - 773 RAMSAY MORTGAGE COMPANY OF NORTH CAROLINA, INC. T/A OLD TOWN FUNDING CORP. - 12/29/97	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
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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

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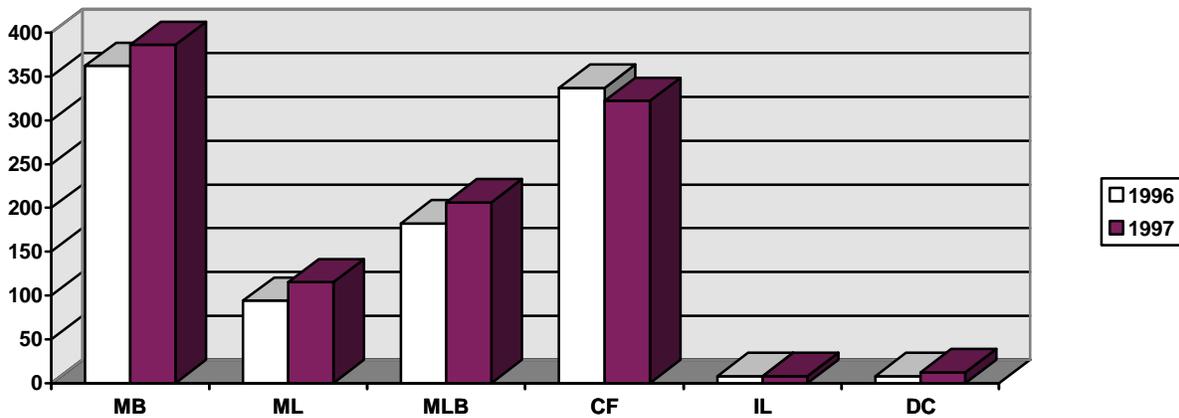
PENALTIES PAID (continued from page 4)

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

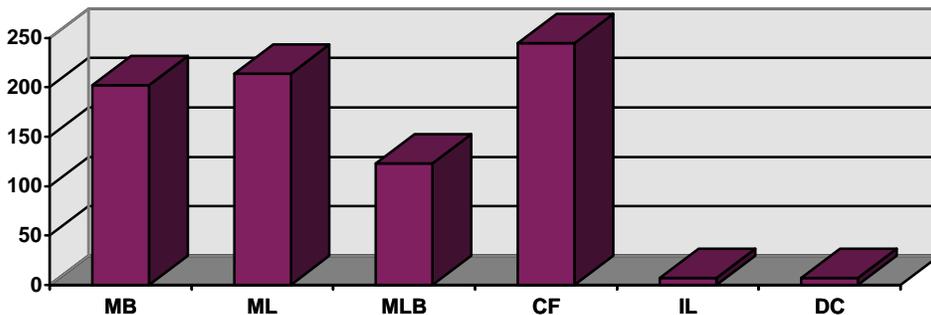
Year End Information:

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.

NUMBER OF LICENSEES



EXAMINATIONS CONDUCTED IN 1997



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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**IMPORTANT REGULATORY
INFORMATION ENCLOSED!!!**