

THE COMPLIANCE CONNECTION

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

2019 VOLUME I



The Compliance Connection is part of the Bureau's efforts to improve communication with the companies we regulate. It is distributed to Virginia mortgage and industrial loan association licensees, and other interested parties. It is the licensee's responsibility to read this newsletter and to be familiar with the positions and interpretations stated herein.

Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at P.O. Box 640, Richmond, VA 23218-0640 or via email at bfquestions@sc.virginia.gov.

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2019 Virginia General Assembly Update

House Bill 2251 amends Chapter 17 of Title 6.2 of the Code of Virginia (Code) relating to mortgage loan originators (MLOs). This bill repeals provisions of the Code which relate to transitional MLO licenses, including § 6.2-1701.2, and adds § 6.2-1701.3 to the Code pertaining to temporary authority to act as a MLO. The bill also amends § 6.2-1708 by adding language relating to pre-licensing expiration rules established by the Nationwide Multistate Licensing System and Registry (NMLS). The bill was signed by the Governor on March 21, 2019, with an effective date of July 1, 2019.

Although the statutory changes take effect July 1, the Bureau understands that the provisions related to temporary operating authority for MLOs cannot be officially recognized until corresponding amendments to the federal SAFE Act take effect on November 24, 2019. The Bureau plans to disseminate more details on how the temporary operating authority laws will be enforced once we gain a better understanding of how NMLS will accommodate these changes.

The amendments to § 6.2-1708 specify that pre-licensing education courses for mortgage loan originators shall be subject to such expiration rules as may be established by the NMLS. In 2016, the NMLS Policy Committee approved the following rules related to the expiration of MLO pre-licensing education courses:

An individual who completed 20 hours pre-licensure education pursuant to 12 U.S.C. § 5104(c) must retake 20 hours of pre-licensure education in order to be eligible for state MLO licensure if he or she:

- (1) fails to acquire a valid state license or federal registration as a MLO within three years from the date of federal compliance with 12 U.S.C. § 5104(c); or
- (2) fails to acquire a valid state license or federal registration as a MLO within three years from the last date of licensure or registration as a MLO.

Accordingly, effective July 1, 2019, MLO pre-licensure education courses that are deemed to be expired under the NMLS policy shall not count toward the minimum number of hours of pre-licensing education required by § 6.2-1708 A.

View the full text of the bill at: <http://lis.virginia.gov/cgi-bin/legp604.exe?191+ful+CHAP0740>

For a list of FAQs about Temporary Operating Authority, please go to the NMLS Resource Center (<https://mortgage.nationwidelicencingsystem.org>) and click on the link in the 'Popular Links' section for the document FAQs S.2155 Temporary Authority to Operate.

For additional information regarding NMLS pre-licensure education requirements, please go to the NMLS Resource Center at: <https://mortgage.nationwidelicencingsystem.org/profreq/education/Pages/default.aspx>

2019 Assessments:

The annual assessment invoices have been posted to every licensed mortgage company's NMLS record as a "license item." Assessments are set by Virginia Regulation 10 VAC 5-160-40. The amount listed on the invoice is due by May 25, 2019 and reflects a 55% reduction for the 2019 assessment. This reduction was approved by the State Corporation Commission (Commission) pursuant to an Order dated April 12, 2019. Failure to pay by May 25, 2019 could lead to license revocation or civil penalties pursuant to §§ 6.2-1619 & 6.2-1624 of the Code of Virginia. Licensees who have dual authority (to act as a mortgage lender and mortgage broker) should be aware that only one invoice will be issued for both authorities and it will appear on the **lender** portion of a company's license.



Fax Fees Prohibited for Payoff Statement

Section 6.2-418 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 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 shall not charge for the mode of transportation of payoff information.

(This article was originally published in the Summer 2004 and Winter/Spring 2005 issues. NOTE: the Code section number was changed since the original publication due to recodification in October 2010)

When is an Additional Office License Required?

Section 6.2-1607 B of the Code of Virginia prohibits a licensee from opening an additional office without prior approval of the Commission and states, in part, that applications for such approval shall be made in writing on a form provided by the Commissioner. The criteria we use to evaluate whether a location is considered an "additional office" requiring approval includes, but is not limited to, the following:

1. The licensee negotiates, places, finds or makes Virginia mortgage loans from the location,
2. The licensee meets with Virginia consumers at the location (excluding locations such as coffee shops/restaurants, a consumer's home or place of work)
3. The licensee advertises in any way that it conducts its Virginia mortgage business from the location, or
4. The licensee maintains books, accounts or records of Virginia mortgage loans at the location.

If a mortgage lender or broker licensee is conducting any of these activities, it may need to seek approval from our office by submitting the required MU3 application form via NMLS.



License Update

The following is a list of companies and individuals that have been barred, had their license revoked, had an application denied, or paid a fine or civil penalty since July 31, 2018. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of April 5, 2019. Call the Bureau if you have a question concerning a recent denial or regulatory action taken by the Commission. To view specific Commission Orders, go to the following link and enter the company name: <http://www.scc.virginia.gov/docketsearch#DocketSearch/search>.

Persons Barred from Employment, Management or Control of any Licensee (pursuant to § 6.2-1620 of the Code of Virginia)

Vicken Kassouny a/k/a Menikin Edward Kounian – entered September 14, 2018. Mr. Kassouny pled guilty to the felony of conspiracy to commit bank fraud in violation of 18 U.S.C. § 1348 in the U.S. District Court for the Central District of California.

Revocation Orders

MC – 5760 Home America Lending Corp. – order entered December 11, 2018 for various disclosure violations and for failing to provide the Bureau with a response to its examination report in violation of §§ 6.2-406 A (2) and 6.2-1614 (1) of the Code of Virginia and 10 VAC 5-160-30 B and 10 VAC 5-160-50 B of the Commission's Rules Governing Mortgage Lenders and Brokers.

MC- 508 Sunshine, Inc. d/b/a South West Mortgage Corp. – order entered December 27, 2018 for failing to file its mortgage call report pertaining to its financial condition in the Nationwide Mortgage Licensing System and Registry, in violation of 10 VAC 5-160-90 B of the Commission's Rules Governing Mortgage Lenders and Brokers.

MC – 6626 Vernam Mortgage Professionals LLC – order entered January 30, 2019 for failing to file several mortgage call reports and a mortgage call report pertaining to its financial condition in the Nationwide Mortgage Licensing System and Registry, in violation of 10 VAC 5-160- 90 B of the Commission's Rules Governing Mortgage Lenders and Brokers.

Settlement Orders

Commercial Finance Services 1107, LLC – order entered August 1, 2018. Paid \$5,000 for failing to obtain Commission approval prior to acquiring 25% or more of the ownership of SIRVA Mortgage, Inc. (MC-310), in violation of § 6.2-1608 of the Code of Virginia.

MC – 5429 Sabina Mortgage, Inc. – order entered October 12, 2018. Paid \$5,000 for alleged violations of 10 VAC 5-160-90 B of the Commission's Rules Governing Mortgage Lenders and Brokers relating to failing to file timely mortgage call reports.

MC – 5700 Wang PetaData, Inc. – order entered November 8, 2018. Agreed to a four month suspension of its mortgage broker license for alleged pattern and practice of violating 10 VAC 5-160-90 B of the Commission's Rules Governing Mortgage Lenders and Brokers relating to failing to file timely mortgage call reports.

Christian Duncan – order entered December 27, 2018. Paid \$2,500 for failing to obtain Commission approval prior to acquiring 25% or more of the ownership of Frontline Financial, LLC (MC -2577), in violation of § 6.2-1608 of the Code of Virginia.

MC – 5216 Champions Mortgage, Inc. – order entered January 29, 2019. Findings from a 2018 examination revealed violations of §§ 6.2-1616 B; 6.2-1607 A; 6.2-1609 C; 6.2-1612 B of the Code of Virginia and 10 VAC 5-160-60; 10 VAC 5-160-20; 10 VAC 5-160-50 and 10 VAC 5- 160-90 of the Commission's Rules Governing Mortgage Lenders and Brokers. In lieu of revocation, the licensee agreed to surrender its license to engage in business as a mortgage broker.

MC – 5704 American Financial Network, Inc. d/b/a Parkmont Lending – order entered March 13, 2019. Paid \$2,500 for alleged violation of 10 VAC 5-160-60 C (2) of the Commission's Rules Governing Mortgage Lenders and Brokers relating to a mail solicitation that did not include a required statement that clarified that the mailing was not a loan approval.

IL – 40 Industrial Loan Company – order entered March 12, 2019. Paid \$7,500 for alleged violations of § 6.2-1403 A of the Code of Virginia and 10 VAC 5-50-20 B of the Commission's Rules Governing Industrial Loan Associations relating to its failure to provide all records and information the Bureau requested.

Billie Edward Phillips, Jr. – order entered April 2, 2019. Paid \$2,500 for failing to obtain Commission approval prior to acquiring 25% or more of the ownership of Associated Mortgage Bankers, Inc. (MC – 5518), in violation of § 6.2-1608 of the Code of Virginia.

Announcing “BOX” Secure File Exchange

Remember when you were able to provide documents to the examiner for an examination on an encrypted disk or flash drive or we set up a FTP account for you to upload documents? Well, the Commission is changing with the times and has selected BOX for the secure file exchange. BOX is a secure, collaborative, cloud-based, file sharing system that works with virtually every internet-connected computer or device.

BOX adheres to the highest industry standards for security which will provide the Commission and its stakeholders secure data in transit and at rest encryption. BOX also introduces a full suite of auditing tools and data redundancy to help make sure only authorized users can access data and that the data is always available. For more on BOX security, please visit <https://community.box.com/t5/How-to-Guides-for-Account/Data-Encryption-at-Box/ta-p/32>.

Going forward, all examination information provided to the Bureau in electronic form must be provided through BOX – no disks, thumb drives or internal or external FTPs will be accepted.



IMPORTANT COMMISSION TELEPHONE NUMBERS

Licensing (applications, name changes, relocations)	(804) 371-9690
Non-Depository Supervision (mortgage examinations)	(804) 371-9701
Non-Depository Consumer Complaints	(804) 371-9701
Depository Supervision (banks/credit union exams)	(804) 371-9704
Corporate Information – Clerk’s Office	(804) 371-9733



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