

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@scv.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.

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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

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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 - 1021 John H. Yates t/a AAA Mortgage Brokers - 3/27/06
MB - 2079 Sharon L. Borst, Inc. d/b/a First Carolina Funding Company - 2/21/06	ML - 621 Elizabeth River Mortgage, L.P. - 3/31/06
MB - 1176 Southern Mortgage Services, Inc. - 2/23/06	MB - 967 Bozzuto Mortgage Company - 3/31/06
MB - 1657 Phoenix Financial Corporation d/b/a Abacus Mortgage - 2/24/06	MB - 1965 Prime Mortgage Company - 3/31/06
MB - 1678 Jefferson Mortgage Corporation - 2/27/06	MB - 1511 Community Home Mortgage, LLC d/b/a Community Mortgage Group, LLC - 4/1/06
MB - 1236 Old Dominion Mortgage, Inc. - 2/27/06	MB - 1721 FaithLoan, Inc. d/b/a Midas Mortgage - 4/4/06
MB - 2630 Trinity Mortgage, Inc. - 2/27/06	MB - 2322 Gordon Henry Miller d/b/a DNJ Mortgage - 4/10/06
MB - 1999 Affordable Mortgage Corporation - 2/28/06	ML - 524 FirstCity Mortgage, Inc. - 4/11/06
MB - 1720 Equity Vision Mortgage Corp. - 2/28/06	ML - 587 Acoustic Home Loans, LLC - 4/14/06
MB - 2726 Partnership Mortgage, Inc. - 2/28/06	MLB - 1169 Quotemearate.com, Inc. - 4/18/06
MLB - 1048 Commonsense Mortgage Inc. d/b/a First Solution Lending - 3/2/06	MB - 1809 Prospex Mortgage Corporation - 4/26/06
MB - 2224 American Discount Mortgage Entity, Inc. (Used in VA by: American Discount Mortgage, Inc.) - 3/2/06	ML - 607 Pinnacle Mortgage Company USA (Used in VA by: Pinnacle Mortgage Company) - 4/26/06
MB - 1500 Residential Loan Corp. - 3/4/06	MLB - 1179 Assurafirst Financial Company - 4/26/06
MB - 3008 Amerifirst Mortgage of Virginia, LLC (Used in VA by: Amerifirst Mortgage LLC) - 3/8/06	MLB - 944 Sterling Coast to Coast Financial Group, Inc. - SURRENDERED ITS LENDER AUTHORITY ONLY - NOW LICENSED AS MB - 3480 - 4/27/06
MB - 2915 Southland Log Homes Mortgage Company, LLC - 3/14/06	MB - 2133 Celsius Mortgage LLC - 4/28/06
MLB - 795 D & M Financial Corp. - 3/17/06	MB - 1358 Washington Nationwide Mortgages Corporation - 5/1/06
MB - 539 Edelman Mortgage Services, Inc. - 3/20/06	MB - 2246 Progressive Loan Funding Corporation (Used in VA by: Progressive Loan Funding) - 5/1/06
MLB - 1000 Altara Home Mortgage, LLC - 3/21/06	MLB - 958 Michigan Fidelity Acceptance Corporation d/b/a Franklin Mortgage Funding - 5/2/06
MB - 1224 Donna L. Chocklett d/b/a Chocklett Mortgage & Financial Services - 3/21/06	MB - 1378 First Dominion Mortgage Corporation - 5/2/06
MLB - 750 NovaStar Home Mortgage, Inc. - 3/21/06	MB - 2632 Harbor Court Funding, Inc. - 5/3/06
ML - 224 Dovenmuehle Funding, Inc. - 3/22/06	ML - 636 Southwest Funding, LP - 5/4/06
MLB - 926 Hic-Star Corporation d/b/a WestWorks Mortgage - 3/23/06	MLB - 771 Silver Construction Capital, L.L.C. - 5/15/06
MB - 2257 Community Lending Associates, Inc. - 3/23/06	MB - 2087 Equity Ventures Group, Ltd. - 5/15/06

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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. Responses 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").

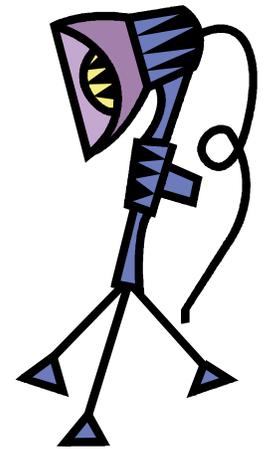
While the first three sections deal specifically with the examination and supervision of certain types of institutions, Corporate Structure deals with the structure and corporate matters of all institutions regulated by the Bureau. In an effort to better serve you and enhance efficiency, we are providing 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 long-awaited 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



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IMPORTANT REGULATORY INFORMATION ENCLOSED!