
The Compliance Connection

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

Summer 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, Jon Orne, Bill Schutt and Nick Kyrus for their contributions to this issue!

July 1, 2001 Consumer Finance Amendments:

In response to various questions received relating to amendments to Chapter 6 of Title 6.1 of the Code of Virginia (the Consumer Finance Act), it is the Bureau's position that on loans of up to \$2500, interest shall not be charged on the processing fee. This is based on the language in §6.1-272.1.C. Please also note that interest is not permitted on late charges imposed in connection with loans made under the Consumer Finance Act, regardless of loan amount. If processing fees and late charges are to be assessed in connection with consumer finance loans, they must be contracted for in the note.

The above stated positions will not be enforced retroactively; however, violations on loans closed after receipt of this publication will be cited, and reimbursements will be required for any related overcharges.

Clarification of July 1, 2001 Amendment to §6.1-422.C of the Code of Virginia:

The Bureau has received a number of inquiries concerning the meaning of the sentence added to the end of §6.1-422.C of the Code of Virginia. Based on these inquiries, there seems to be quite a bit of confusion about this amendment. Contrary to some of the comments we have seen and heard concerning the interpretation of this amendment by real estate agents/brokers and mortgage lenders/brokers, this amendment does NOT permit referral fees. Such fees are still prohibited under §8 of RESPA. This amendment also does NOT allow real estate agents to broker mortgage loans without first obtaining a mortgage license pursuant to the Mortgage Lender and Broker Act. Nor does it repeal the "dual compensation" prohibition outlined in this same section of the Code.

It is the Bureau's understanding that the purpose of this sentence (added by Chapter 502 of the 2001 Acts of Assembly) is to clarify that a licensed real estate broker having an ownership interest in a real estate company can also (1) have an ownership interest in a mortgage lender or broker, (2) receive a return on that ownership interest and (3) receive compensation for some unspecified services performed for the mortgage lender or broker in which the real estate broker has an ownership interest. The unspecified services do not include mortgage broker services.

Privacy Act – Effective July 1, 2001:

Did you send out a privacy notice by July 1, 2001? The Gramm-Leach-Bliley Act (also known as the Financial Services Modernization Act) was passed in 1999. The privacy provisions of the Act had a mandatory compliance date of July 1, 2001. All financial institutions (which may include consumer finance companies, mortgage lenders and brokers) are required to send initial privacy statements to existing customers. If you missed the deadline, you should contact an attorney knowledgeable in this area for advice on compliance with this *federal* law. Many companies have called the Bureau's office for guidance, however, we do not have the authority to provide the notices required or to provide legal advice in this matter.

Generally, 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.

For more information about the privacy provisions of the Gramm-Leach-Bliley Act, visit the Federal Trade Commission's web site: <http://www.ftc.gov/ftc/news.htm>.

BFI's Senior Counsel Announces Retirement:

Senior Counsel Bill Schutt will retire on October 1st after more than 27 years with the State Corporation Commission. After a two-year tour in the U.S. Army, Bill attended the T.C. Williams School of Law at the University of Richmond, where he earned a Juris Doctor degree. Prior to joining the SCC, Bill spent a couple of years working for a small Richmond law firm.



One of the highlights of Bill's career came shortly before announcing his retirement. He was involved in the preparation of a petition the BFI Commissioner Joe Face and other defendants filed in the United States Supreme Court in June in the case of NHEMA (National Home Equity Mortgage Association) *v. Face, et. al.* The petition seeks review of rulings by two lower federal courts that federal law preempts Virginia's laws limiting the prepayment penalty lenders can charge on alternative home mortgage loans. The Supreme Court is expected to review that petition on September 24 and decide whether to accept the case for briefing, a hearing and a decision.

We wish Bill the best in his future endeavors!

2000 Annual Report:

The 2000 Annual Report of the Bureau of Financial Institutions and its two supplements, as well as past publications, can be found at our web site at www.state.va.us/scc/division/banking. The annual report contains information about banks, S& L's, credit unions, and trust companies. One supplement contains information about mortgage lenders/brokers, money transmitters/money order sellers, industrial loan associations, non-profit debt counseling agencies and check cashers, and the other supplement contains information about consumer finance licensees.

We continue to publish a hard copy of the annual report but not the supplements to the annual report. Mainly because of different filing requirements for the licensees, the reports are prepared at different times of the year. Availability of the reports over the internet provides valuable information to the public and saves considerable time for all of us.

New Mortgage Loan Brochure Available:

“Mortgage Loans – Understand the Terms of Your Loan Before You Sign” is designed to assist borrowers in identifying the terms of the mortgage loan, determining what terms are best for their situation, and identifying issues they should be aware of before entering into a mortgage loan transaction. The brochure is a joint effort between industry, the American Financial Services Association (AFSA) and two state regulatory associations, the National Association of Consumer Credit Administrators (NACCA) and the American Association of Residential Mortgage Regulators (AARMR).

Topics include:

- Can you afford this loan?
- A monthly spending plan (includes a spending chart)
- Shop for the best deal when borrowing for a mortgage loan
- Know the terms of your loan before you sign!
- Contacts for more information.



If you would like to purchase these brochures to distribute to your customers or potential customers, copies can be ordered through AFSA’s Education Foundation. Contact them at www.afsaef.org or by phone at 1-888-400-2233. The cost for the brochures is very reasonable --\$9.00 for 50 copies -- but if you order 1,000 or more, you will receive a 20% discount!

Privacy Act Affects Payoff Request Procedure:

Virginia Code §6.1-330.82 requires lenders to provide borrowers or their designee, payoff information within 10 days of receiving a written request from the borrower or his designee. Since the borrower’s address, loan number and loan balance are considered nonpublic personal information under the privacy provisions of the Gramm-Leach-Bliley Act (see article on Page 2), lenders will not be able to provide this information to anyone except the borrower, unless the borrower provides written permission to release this information to a third party (i.e. attorney, closing agent, new mortgage company, etc.). Please be aware of this change and make the adjustments necessary to facilitate the closing process.

Predatory Lending Hearings Held:

The Senate Banking Committee chaired by Senator Paul Sarbanes (D-MD) held hearings on predatory lending on July 26th and 27th. The Committee heard testimony from 18 witnesses, including but not limited to, four alleged victims of predatory lending, mortgage industry representatives, consumer advocacy groups and the Iowa Attorney General’s office. Senator Sarbanes is considering anti-predatory lending legislation. He indicated, at the close of the hearings, that federal preemption of state and local laws without adequate federal standards in place to address abusive lending practices is not acceptable.



Colorado Supreme Court Decides Cash Now Case:

In the Summer 2000 issue we reported that Commissioner Face was participating as co-amicus in the case of Colorado v. Cash Store, Inc. (Cash Now). On September 10, 2001 the Colorado Supreme Court held, as contended by the State of Colorado and co-amici, that Cash Now's purchases of consumers' tax refunds at a discount amounted to a consumer lending business which committed multiple violations of Colorado's UCCC, contrary to the lower courts' decisions in the case.

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 May 15, 2001**. We hope the list is helpful in keeping track of companies with which you do business. **These lists are accurate as of August 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 MAY 15, 2001

- | | |
|--|--|
| MB – 410 First Service Mortgage, Inc. – 5/17/01 | MB – 550 Eastland Mortgage Company, Inc. – 6/28/01 |
| MLB – 440 First Bankers Mortgage Services, Inc. – 5/21/01 | MB – 1184 Future Link 2000, Incorporated d/b/a Future Link Funding – 6/30/01 |
| MB – 1385 Progressive Mortgage Services, LLC – 5/22/01 | MLB – 719 First Nations Home Finance Corporation – 6/30/01 |
| MB – 1116 Advantage Mortgage Corporation – 5/23/01 | MB – 36 Westover Mortgage Corporation – 7/03/01 |
| MB – 1402 Judy A. White d/b/a Diversified Brokerage – 5/23/01 | MB – 1334 M.G. Langston, Inc. d/b/a Country Homes – 7/06/01 |
| MB – 1350 King Mortgage Corp. – 5/29/01 | MLB – 488 Seacoast Equities, Inc. – 7/06/01 |
| MB – 1260 Mortgage Resources, LLC – 5/29/01 | MB – 793 The Merendino Group, Inc. – 7/17/01 |
| MLB – 17 U.S. Home Mortgage Corporation – 6/01/01 | MB – 1000 Dwight E. Monger – 8/06/01 |
| MB – 1330 Monarch, Inc. d/b/a Monarch Mortgage – 6/01/01 | MB – 1490 Harbor Homes Mortgage, Inc. – 8/07/01 |
| MB – 1057 Kimberly J. Roberson t/a Middle America Mortgage – 6/01/01 | MB – 1019 First Rate Mortgage Corporation – 8/10/01 |
| MB – 1192 Fairway Independent Mortgage Corporation – 6/06/01 | MB – 1536 Ronnie Belt Cole d/b/a Mid-Atlantic Mortgage – 8/13/01 |
| ML – 15 TranSouth Mortgage Corporation – 6/08/01 | MB – 478 Richard W. Miller – 8/13/01 |
| MB – 625 WMS, Inc. – 6/11/01 | MB – 251 Peggy L. Navarro & Larry D. Gartin d/b/a “3001 A.D.” – 8/13/01 |
| MB – 1215 Southside Mortgage & Settlement Company – 6/19/01 | |

MORTGAGE LICENSE REVOCATIONS SINCE MAY 15, 2001

MLB – 607 Members Capital Mortgage, LLC d/b/a Members Capital Mortgage – 6/15/01 – for failure to maintain surety bond pursuant to §6.1-413 of the Code of Virginia

MB – 1506 BTS Financial Group, Inc. – 6/15/01 -- for failure to maintain surety bond pursuant to §6.1-413 of the Code of Virginia

MB – 1210 Domain Financial Group, Inc. – 6/15/01 -- for failure to maintain surety bond pursuant to §6.1-413 of the Code of Virginia and for failure to file annual report pursuant to §6.1-418 of the Code of Virginia

The following revocations occurred on June 19, 2001 as a result of the licensee's failure to file the annual report pursuant to §6.1-418 of the Code of Virginia:

MB – 842 Integrity Mortgage and Finance, Inc.

MLB – 92 Diversified Lending Services, Inc.

MB – 1524 Metropolitan Mortgage and Financial Services, Corporation

MB – 1336 U.S.A. Mortgage, Inc.

MB – 1128 The Equity Source, Inc.

ML – 277 MG Investments, Inc.

ML – 358 PMCC Mortgage Corp. d/b/a Premier Mortgage Corp.

MB – 1435 Homeowners.com Inc.

MLB – 584 Flagship Capital Services, Corp.

MB – 577 Morgan Home Funding Corporation

MLB – 552 Collinbrook Mortgage Corporation

PENALTIES PAID BY MORTGAGE LICENSEES SINCE MAY 15, 2001

MLB – 483 American Mortgage Exchange, Inc. d/b/a American Mortgage Exchange – 6/13/01 – paid \$300 for relocating an office without applying for and obtaining Commission approval

MORTGAGE APPLICATIONS DENIED SINCE MAY 15, 2001

MB – 1664 U.S. Mortgage Lending Corporation – 6/25/01

MLB – 733 Collateral One Mortgage Corporation – 6/29/01

MB – 1742 Americas First Home Mortgage Company – 8/02/01

Attention New Mortgage Licensees:

Friday, November 16, 2001 is the date of the next orientation for new mortgage licensees. Companies who are licensed between July 1, 2001 and September 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!

**VFSA's 2001 Distinguished Service Award:**

The Virginia Financial Services Association awarded the 2001 Distinguished Service Award to Billie Reynolds, during their annual convention in Virginia Beach. The award recognizes Mrs. Reynolds' contribution to the growth and advancement of the financial services business.

Congratulations Mrs. Reynolds!

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!!!**