
The Compliance Connection

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

March 1996



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A Note From The Commissioner

Sidney A. Bailey

At the risk of inviting more criticism than we have prepared for, this newsletter - a new undertaking - is an effort, by the Consumer Finance section of the Bureau, to open a forum for communication limited only by the demands of civil discourse. If you have a question, an observation or wish to offer some (mild) criticism, the floor will be open. We will try to answer all questions (on issues we know anything about and, maybe, even some we don't) and will try to provide useful information from time to time, provided we come across any.

Let Joe Face or any of his associates know how you react to this publication. Should it be continued? How often? What should be in it? Let us know. The popular view probably will prevail.

Mortgage Details You Should

Know...

..."mortgage loan" as defined by Section 6.1-409 of the Virginia Code includes loans secured by second homes even if the owner only occupies the home for one day per year.

...RESPA prohibits a charge to borrowers for the preparation of the truth-in-lending statement, the good faith estimate and the HUD-1 and HUD-1A. Likewise, UPL (unauthorized Practice of Law) Opinion 112 prohibits lenders from charging borrowers for the preparation of documents affecting title to real estate (i.e.: deed of trust).

...Mortgage brokers, licensed prior to February 25, 1989 who are also real estate agents must have, in addition to the notice required by Section 6.1-422B(5), a broker agreement with a specific broker fee amount disclosed (if compensated by the borrower). Other brokers using this notice as their contract for compensation (broker agreement) need to remove the "not to exceed" language (Ref.: Administrative Ruling 1607).

...prior SCC approval is required before relocating an existing office or opening a new one (Ref.: Section 6.1-416B) and a written notification to the Bureau is required within 10 days of the opening of a new company or branch office, the relocation of an existing licensed office and/or the closure of a licensed office (Ref.: Section 6.1-416B & C).

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Broker Fee Memorandum

The following is a reprint of a Memorandum from Deputy Commissioner Face, dated February 5, 1993 which addresses compensation retained by brokers (i.e.: broker fees and processing fees). This memo was sent to all licensed mortgage lenders and brokers companies who were licensed as of that date. This memo is often referenced in the Bureau's response to broker fee violations, so we recommend that all licensees (and their employees) be aware of its content and the results of non-compliance.

MEMORANDUM

TO: ALL MORTGAGE LICENSEES

RE: COMPENSATION RETAINED BY BROKERS

(I.E.: BROKER FEES AND PROCESSING FEES)

Numerous violations of Section 6.1-422.B(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, excluding documented third party fees, must be disclosed and agreed to by the borrower(s). 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 6.1-422.B(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.

Mortgage Details You Should Know... (Continued from Page 1)

...Section 6.1-416C of the Virginia Code requires that the Commission be notified, in writing and within 10 days, of the name, address and position of each new senior officer, member, partner or director. In addition to notification, a personal financial statement is required of individuals who meet the following qualifications:

- 1) Any partner or principal owner who owns 10% or more of the company,
- 2) Any senior officer who is not more than three management levels from the Chief Executive Officer, and/or
- 3) Any director who is a paid employee or owns 10% or more of the company stock.

Outside directors who are not paid employees and do not own 10% or more of the company's stock must file a limited financial statement. Personal financial statements must be completed on forms provided by the Bureau and are considered confidential.

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License Update

On a quarterly basis, we will be providing information regarding licenses surrendered, denied, revoked, and fines levied by the Commission. We hope this will be helpful in keeping track of unlicensed companies. Please remember that these lists are accurate as of March 1, 1996, 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 Section 6.1-410 and Administrative Ruling 1603 which can result in regulatory action.**

MORTGAGE LICENSES SURRENDERED SINCE JANUARY 1, 1995

MB-594 VINA HOME MORTGAGE CORP.-1/1/95	MLB-118 ATHOL MORTGAGE CORP.-5/26/95
MB-590 FIRST FINANCIAL MORTGAGE SERVICES, INC.-1/5/95	MLB-158 FIRST FIDELITY MORTGAGE CORP.-5/31/95
MB-448 HAMILTON FINANCIAL GROUP, INC.-1/11/95	MB-768 PETER A. HOWE D/B/A CAPITAL CLEARING HOUSE-6/7/95
MLB-265 MCLEAN MORTGAGE SERVICES, INC.-1/17/95	ML-116 FIRSTBANK MORTGAGE INC.-6/7/95
MB-327 DOMINION FINANCIAL GROUP, INC.-1/20/95	MB-728 FIRST AMERICAN MORTGAGE CO., INC.-6/26/95
MB-693 CITIZENS FINANCIAL CORPORATION-1/24/95	MB-120 GRAVES MORTGAGE CORP.-6/27/95
MB-722 WINCHESTER MORTGAGE COMPANY, INC. 1/31/95	MB-725 TRIMARK FINANCIAL SERVICES, INC.-7/13/95
MB-415 WEISMILLER & ASSOCIATES, INC.-2/6/95	MLB-234 FIRST MOUNT VERNON FINANCIAL CORP.-7/31/95
MB-498 ALLIANCE MORTGAGE GROUP, INC.-2/21/95	MLB-129 WATERFORD MORTGAGE CORPORATION-8/3/95
MB-653 RONALD D. LANGLAS-3/2/95	MB-771 NATIONAL HEALTHCARE FINANCIAL ASSOC., INC.-8/4/95
MLB-254 RESIDENTIAL HOME FUNDING CORP. 3/11/95	MB-720 WINDSOR MORTGAGE CORP.-8/7/95
ML-128 WMF RESIDENTIAL MORTGAGE CORP.-3/13/95	MB-877 CAPITAL MORTGAGE COMPANY-8/14/95
MB-99 VIRGINIA MORTGAGE EXCHANGE, INC.-3/15/95	MLB-256 TMC MORTGAGE CO., L.P.-9/6/95
MLB-69 TIDEWATER FIRST FINANCIAL GROUP, INC.-3/16/95	MLB-729 SHELTER MORTGAGE COMPANY PARTNERSHIP NO. 30-9/8/95
MLB-252 HOME CREDIT CORPORATION-3/22/95	MB-585 HICKORY RIDGE MORTGAGE CO., INC.-9/18/95
MB-694 TERRY W. KOESELL-3/23/95	MB-561 FITZGERALD FINANCIAL GROUP, INC.-9/29/95
MB-667 WASHINGTON SUBURBAN MORTGAGE CO.-4/3/95	ML-12 THORP CONSUMER DISCOUNT CO.-10/6/95
MB-329 UNION TRUST MORTGAGE, INC. 4/4/95	MB-640 INTERCONTINENTAL MORTGAGE CORP.-10/16/95
MB-447 INTRA-COASTAL MORTGAGE COMPANY, INC.-4/7/95	MLB-59 LOMAS MORTGAGE, USA, INC.-10/24/95
MB-605 J. FREMON JONES-4/10/95	MLB-230 SHELTER MORTGAGE COMPANY PARTNERSHIP NO. 500 D/B/A SMC MORTGAGE CORP.-11/21/95
ML-72 CUNA MORTGAGE CORPORATION-4/10/95	MLB-345 SECURITY CAPITAL, INC.-11/27/95
MLB-288 COLONIAL PACIFIC MORTGAGE COMPANY T/A RAMSAY MORTGAGE CO. INC.-4/15/95	MLB-216 SENTRY MORTGAGE BANKERS, L.P.-11/29/95
MB-213 FREEDOM MORTGAGE CORP.-4/17/95	ML-161 MOREQUITY, INC.-12/7/95
MB-168 ROBERT L. SEGAL-5/4/95	MB-375 JENNIFER L. INSCOE-12/21/95
MB-735 ACTIVE MORTGAGE COMPANY, INC.-5/8/95	MLB-222 COOK & ASSOCIATES INC., D/B/A PENINSULA HOME FUNDING-12/22/95
MLB-269 SHAREHOLDERS FUNDING, INC. D/B/A AFFINITY NATIONAL MORTGAGE-5/9/95	MB-657 HARBOR MORTGAGE COMPANY, INC.-1/17/96
MLB-25 NEWMARKET CAPITAL CORP.-5/22/95	MB-353 HULFISH MORTGAGE COMPANY-1/19/96
MLB-313 EXPRESS AMERICA MORTGAGE CORP.-5/23/95	

MORTGAGE APPLICATIONS DENIED SINCE JANUARY 1, 1995

ML-177 CORPORATE MORTGAGE SERVICES, INC. D/B/A CMS HOME EQUITY SERVICES-2/28/95
 MB-832 MCLEAN MORTGAGE CAPITAL, INC.-3/29/95
 MB-794 APPLE TREE MORTGAGE INC.-4/7/95
 MB-817 TREEHOUSE MORTGAGE INC.-5/19/95
 MB-837 FINANCIAL RESOURCE GROUP OF VA INC.-5/25/95
 MB-877 CAPITAL MORTGAGE COMPANY-8/14/95
 MLB-368 ALLIED MORTGAGE CAPITAL CORP.-9/1/95
 MB-870 POTOMAC HOME MORTGAGE CORP.-9/1/95
 MB-830 MORTGAGE ENTERPRISES, INC.-4/10/95
 MB-891 FINANCIAL ALTERNATIVES, INC.-12/14/95
 MB-876 ALLSTATE FUNDING CORPORATION-12/20/95
 MB-925 EXPRESS MORTGAGE, INC. 1/16/96
 MB-911 U.S. VETERANS MORTGAGE CORP. - 1/18/96
 MB-886 CARENE S. KADALEC D/B/A KMC MORTGAGE COMPANY-1/26/96
 ML-223 DITECH FUNDING CORPORATION - 2/22/96

MORTGAGE LICENSE REVOCATIONS SINCE JANUARY 1, 1995

MB-611 SIGNATURE MORTGAGE CORPORATION - 2/21/95 - FAILURE TO MAINTAIN SURETY BOND
 MLB-264 CITY WIDE MORTGAGE, INC. - 3/31/95 - FAILURE TO MAINTAIN SURETY BOND
 MB-702 FOXHALL MORTGAGE CORPORATION - 5/1/95 - FAILURE TO MAINTAIN SURETY BOND
 MLB-159 PERFORMANCE MORTGAGE COMPANY OF COACHELLA VALLEY - 5/26/95 - FAILURE TO FILE ANNUAL REPORT
 MLB-227 MORTGAGE ONE FINANCIAL CENTERS, INC. - 5/26/96 - FAILURE TO FILE ANNUAL REPORT
 MB-684 FINTEK INC. - 5/26/95 - FAILURE TO FILE ANNUAL REPORT
 MB-535 MORTGAGE LENDING CORPORATION - 5/26/95 - FAILURE TO FILE ANNUAL REPORT
 MLB-246 AMERICAN INDEPENDENT MORTGAGE, INC. - 5/26/95 - FAILURE TO FILE ANNUAL REPORT
 MB-118 DAVID VADEN T/A MORTGAGE AID FINANCIAL SERVICES OF VIRGINIA - 5/26/95 - FAILURE TO FILE ANNUAL REPORT
 MB-348 FAR EAST FINANCIAL COMPANY T/A CENTRAL TRUST MORTGAGE - 5/26/95 - FAILURE TO FILE ANNUAL REPORT
 MB-596 ABS FINANCIAL SERVICES, INC. - 5/26/95 - FAILURE TO FILE ANNUAL REPORT
 MB-108 CONTINENTAL MORTGAGE CORPORATION - 5/26/95 - FAILURE TO FILE ANNUAL REPORT
 MB-545 TERRI G. JOHNG - 5/26/95 - FAILURE TO FILE ANNUAL REPORT
 MLB-244 SC FUNDING CORPORATION - 7/7/95 - REVOKED AND ENJOINED DUE TO VARIOUS VIOLATIONS OF LAW
 MB-664 STRATEGIC FINANCING GROUP, INCORPORATED - 10/2/95 - FAILURE TO PAY ANNUAL FEE

MORTGAGE LICENSE SUSPENSIONS SINCE JANUARY 1, 1995

MB-573 MORTGAGE ADVANTAGE CORPORATION - EFFECTIVE 2/20/96

FINES LEVIED AGAINST MORTGAGE LICENSEES SINCE JANUARY 1, 1995

MLB-262 MORTGAGE SERVICE AMERICA, CO. - 1/18/95 FINED \$600 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO RELOCATION

MORTGAGE FINES - CONTINUED

- MB-627 INTERNATIONAL MORTGAGE ASSOCIATION, INC. - 2/21/96 FINED \$250 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO MOVE
- MLB-250 CONSUMER FIRST MORTGAGE, INC. - 3/6/95 FINED \$1,000 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO RELOCATION
- MLB-90 SOURCE ONE MORTGAGE, INC. - 4/5/95 FINED \$300 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO OPENING NEW OFFICE
- MLB-349 HOME LOAN CORPORATION - 4/7/95 FINED \$500 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO OPENING NEW OFFICE
- ML-116 FIRSTBANK MORTGAGE, INC. - 5/1/95 FINED \$400 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 25, 1995
- MB-642 MONUMENT MORTGAGE CORPORATION - 5/26/95 FINED \$250 FOR FAILURE TO OBTAIN PRIOR APPROVAL OF ACQUISITION
- MLB-202 PRIMERICA FINANCIAL SERVICES - 6/14/95 FINED \$500 FOR FAILURE TO OBTAIN APPROVAL PRIOR TO RELOCATION
- ML-137 1ST 2ND MORTGAGE COMPANY OF NJ - 6/19/95 FINED \$500 FOR ACTING AS A BROKER WITHOUT A LICENSE
- MB-446 LIBRA INVESTMENTS - 6/28/95 FINED \$300 FOR FAILURE TO FILE ANNUAL REPORT BY MARCH 25, 1995
- MLB-317 EQUITY ONE OF VIRGINIA, INC. 1/11/96 FINED \$15,000 FOR CONDUCTING UNLICENSED MORTGAGE BUSINESS AT MARTINSVILLE BRANCH PRIOR TO OBTAINING A MORTGAGE LENDER LICENSE

FINES LEVIED AGAINST CONSUMER FINANCE LICENSEES SINCE JANUARY 1, 1995

- EQUITY ONE CONSUMER DISCOUNT COMPANY, INC. - 1/11/96 FINED \$10,000 FOR SELLING PERSONAL PROPERTY INSURANCE PRIOR TO OBTAINING APPROVAL



Important Commission telephone numbers:

Consumer Finance and Mortgage Section (examinations).....	(804)....371-9701
Research and Structure Section (licensing).....	(804)....371-9690
Consumer Complaints	(804) ...371-9705
Bureau of Financial Institutions FAX NUMBER.....	(804)....371-9416
SCC Office of the Clerk.(corporate information).....	(804)....371-9733
Bureau of Insurance.....	(804)....371-9741

Details You Should Know... (Continued from Page 2)

...anytime a suite number is listed on a license and the licensee moves to a different suite within the same building and their suite number changes, a relocation application is required regardless of the circumstances of the move.

...mortgage broker fee agreements should not contain fees for services that a mortgage broker does not perform (i.e.: underwriting, tax service, etc.).

...RESPA 3500.7(c) and Appendix b(12) require Good Faith Estimates to disclose lender-paid fees (i.e.: yield spread premiums, service release premiums, etc.).

...cash used to meet the funds available requirement for a lender's license must be held in a depository institution. Money market mutual funds do not meet this requirement (Ref. Administrative Ruling 1604).

Consumer Finance Details You Should Know...

...For loans made after 7/1/95: First payment extensions will cause the APR and "agreed rate of charge" to differ slightly. Thus, if a first payment extension is taken on a loan, the APR and the actual "agreed rate" should be disclosed. If the rates differ but the APR and the agreed rate are disclosed together as the same rate, a disclosure violation could be cited..

...a non-filing fee can only be charged once in a 5 year period since a UCC-1 (financing statement) is valid for 5 years.

...when correcting overcharge violations relating to insurance premiums (credit life, disability, personal property, involuntary unemployment), the amount of the refund should include interest from the date of the loan to the date the correction is made. Since the borrower never had use of the funds, checks should be sent directly to the borrower instead of crediting the refund to the account.

Year End Exam Summary

The Consumer Finance and Mortgage Section of the Bureau is responsible for regulating consumer finance companies, mortgage broker and/or lenders, industrial loan associations, money order sellers and non-profit debt counseling agencies. As a result of laws passed during the 1995 General Assembly, the Bureau was also given the responsibility of registering money transmitters and check cashers. The following is a breakdown of the number of examinations conducted in 1995 for each regulated area and an overall breakdown of the violations found in consumer finance and mortgage offices.

Examinations Conducted

LICENSE TYPE	NO. OF EXAMS COMPLETED IN 1995
CONSUMER FINANCE (SMALL LOAN COMPANIES)	288
MORTGAGE BROKERS	249
MORTGAGE LENDERS	223
MORTGAGE LENDER/BROKERS	152
INDUSTRIAL LOAN ASSOCIATIONS	3
NON-PROFIT DEBT COUNSELORS	0

Consumer Finance Violations

TYPE OF VIOLATION	% OF TOTAL VIOLATIONS RECORDED
OVERCHARGE (NOT INSURANCE PREMIUMS.)	11.4%
OVERCHARGE (INSURANCE PREMIUMS)	21.8%
FAILURE TO REDUCE RATE (MATURITY)	.06%
JUDGMENT RELATED OVERCHARGES	2.6%
BANKRUPTCY RELATED OVERCHARGES	.98%
FAILURE TO REDUCE RATE (DEATH)	2.2%
SIGNATURES ON BLANK DOCUMENTS	.13%
PAID JUDGMENTS NOT SATISFIED	.66%
FAILURE TO MARK DOCUMENTS PAID & RETURN	19.8%
REGULATION Z	6.9%
RULES & REGULATIONS-OTHER BUSINESS	6.1%
OTHER (REGULATION B, VA REGS/ RULINGS)	27.2%

Mortgage Violations

TYPE OF VIOLATION	% OF TOTAL VIOLATIONS RECORDED
LICENSES, PLACE OF BUSINESS, CHANGES (6.1-416)	1.8%
BOOKS, ACCOUNTS, & RECORDS (6.1-417)	13.9%
PROHIBITED PRACTICES (6.1-422)	16.7%
ESCROW ACCOUNTS (6.1-423)	0.0%
ADVERTISING (6.1-424)	.027%
RELATED VIRGINIA STATUTES (6.1-2.9:5, 55-66.3)	25.6%
REGULATION 225-01-1601	6.6%
REGULATION Z TRUTH-IN-LENDING	3.8%
RESPA	12.1%
OVERCHARGES	11.0%
OTHER (REGULATION B, VA REGS/RULINGS)	8.0%

**REMEMBER:**

1995 ANNUAL REPORTS ARE DUE BY MARCH 25, 1996. THE ANNUAL ASSESSMENT STATEMENTS WILL BE SENT OUT TO ALL LICENSEES BY APRIL 25, 1996. PAYMENT OF ASSESSMENTS WILL BE DUE BY MAY 25, 1996. **DON'T BE LATE!!!** NONCOMPLIANCE COULD RESULT IN A FINE AND/OR REVOCATION.



Look for the next newsletter in your mailbox in June!

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