

# THE COMPLIANCE CONNECTION

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

SUMMER 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 [bfiquestion@sc.virginia.gov](mailto:bfiquestion@sc.virginia.gov).

Special thanks to Carol Foster, Susan Hancock, Jane Harris, Melissa McCollum and Todd Rose for their contributions to this issue!

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## Amended Rules Governing Mortgage Lenders and Brokers:

On July 20, 2006 the Bureau hosted a regulatory meeting in Richmond to discuss the revisions made to the Commission's Rules Governing Mortgage Lenders and Brokers, which went into effect on September 1, 2006. More than 300 people attended and heard an overview of the revisions and were able to ask the Bureau questions about the revised regulations. Below are some of the questions raised before and during the meeting.

**Question:** With regard to 10 VAC 5-160-20 (6), is the disclosure triggered only by the words "preapproved" or "pre-approved"? For example, if a letter describing a potential buyer's qualification used terms such as "approved" or "pre-qualified," would the disclosure be required?

**Answer:** No. The disclosure is only triggered by the term "pre-approved." If the term "approved" or "pre-qualified" is used, the additional disclosure does not need to be given. However, if the term "approved," is used it should be supported by evidence of an approval by a lender.

**Question:** Are licensees required to have the borrower sign the pre-approval disclosure required by 10 VAC 5-160-20 (6) and keep a copy for the file?

**Answer:** The regulation does not specifically require a licensee to obtain a consumer's signature on the disclosure or to retain a copy. However, as part of its examination, the Bureau will need to determine

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## Surety Bond Tips

Below are some tips relating to the surety bond that mortgage licensees are required to maintain pursuant to § 6.1-413 of the Code of Virginia. These tips are based on common issues found when reviewing the surety bonds. Please review these tips and remember that failure to maintain an acceptable surety bond can lead to revocation of the license issued by the Commission.

- The name of the principal (i.e., mortgage company) on the bond should match the name on the Virginia license.
- If a new bond is submitted to replace one that has been cancelled, the effective date of the new bond should run concurrently with the cancellation date of the other bond; there must be no lapse in coverage.
- The current bond amount required for mortgage brokers is \$25,000 and \$50,000 for mortgage lenders and mortgage lender/brokers.
- Original bonds must be signed by the corporate officer or attorney-in-fact for the surety company and by the principal before sending it to the Bureau.

If you have any questions about the requirements for surety bonds, please contact the Bureau at (804) 371-9701.

## Application Form Revisions

The Bureau recently revised many of its application and supplemental forms. Below is a list of some of the forms that were revised. Please make sure to use the most current form when filing applications with the Commission.

### Form No. CCB-4402

Application for Consumer Finance License

### Form No. CCB-8804

Application for Mortgage License

### Form No. CCB-8810

Application for Additional Authority (Mortgage)

### Form No. CCB-1123

Personal Financial Report and Disclosure Form

### Form No. CCB-1143

Limited Personal Financial Report and Disclosure Form

### Form No. CCB-1150

Employment and Business Affiliation Disclosure Form

## Opening a New Office? Relocating?

Did you know that approval from the Commission is required **BEFORE** you open a new office or relocate an existing one? Section 6.1-416 of the Code of Virginia requires licensees to apply for and obtain approval prior to relocating or opening an additional office. Applications should be received at least 30 days prior to the anticipated move/opening date. Opening a new office or relocating an office without the required approval could result in a fine or other regulatory action. In addition, the statute requires licensees to give written notice to the Commissioner of Financial Institutions within 10 days of the commencement of business at the additional or relocated office.

Once granted, an initial approval remains valid for one year. In most cases, openings and relocations occur soon after the approval is granted, but many times the relocation/opening is delayed or canceled altogether. Until written notice from the licensee is received, the Bureau considers offices to be “authorized/unopened”. Such offices do not get put on our list of licensees on the Bureau’s website until the notification of opening is received. Consumers and lenders/investors regularly call the Bureau to determine if offices are approved. **If a relocation/opening notice has not been received by the Commissioner, the Bureau will inform the individual that the office is authorized, but unopened.**



## Surety Bond Claims

MB – 670 Countryside Mortgage Services, Inc. -  
\$7,198 claim paid 3/29/06 – license surrendered 10/12/05

ML – 449 US Money Source, Inc. d/b/a Soluna First--  
\$806 claim paid 4/24/06 – license surrendered 9/21/05

MLB – 1048 Commonsense Mortgage, Inc. --  
\$20,074.10 claim paid 8/8/06 – license surrendered 3/2/06

Since the middle of 1998, Bureau staff has filed bond claims (pursuant to § 6.1-413 of the Code of Virginia) against mortgage licensees totaling \$167,049. The payments received are forwarded to borrowers/applicants and reflect overcharge violations cited by the Bureau in connection with their loans or loan applications. This total does not include any claims that may have been filed by and paid to third parties.

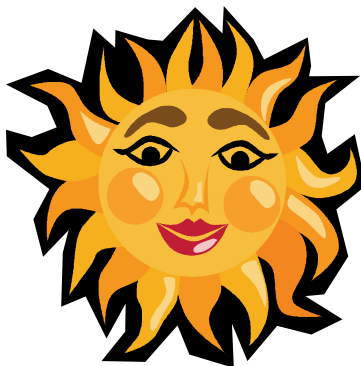


## License Update

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 May 15, 2006. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of August 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 <http://www.scc.virginia.gov/division/banking/violate.htm>.

### Mortgage Licenses Surrendered

- |   |  |
|---|--|
| MB – 2900 Pathway Financial Services, Inc. – 5/16/06  | MB – 2404 Stratus Home Loans, Inc. (Used in VA by: United Mutual Funding, Inc.) – 7/1/06                                     |
| MB – 2304 Natael Mortgage Consultants Incorporated – 5/20/06  | MB – 2684 Accel Mortgage Solutions, Inc. – 7/5/06  |
| MB – 2231 America’s Best Lending Network, Inc. – 5/23/06  | ML – 654 Lenders Association, Inc. – 7/11/06   |
| MB – 841 Accent Mortgage Services, Inc. – 5/23/06   | MLB – 970 Ivanhoe Financial, Inc. – 7/17/06  |
| MB – 2559 Apex Mortgage Brokers, Inc. – 5/30/06   | MLB – 660 Dana Capital Group, Inc. – surrendered in lieu of a hearing for revocation of license - 7/21/06                    |
| MLB – 780 Bay Capital Corp. d/b/a Level One Mortgage Capital (Silver Spring Office) – 6/1/06                  | MB – 2844 Dream Home Mortgage Inc. d/b/a Dream Home Mortgage – 7/24/06   |
| MLB – 948 Global Home Loans & Finance Inc. d/b/a directloansource.com – 6/1/06                                | MB – 2861 Sittig Mortgage, LLC – 7/25/06   |
| MB – 2855 Whitney, Mason & Company L.L.C. – 6/2/06  | MB – 2658 North Georgia Mortgage Group, Inc. – 7/30/06   |
| MLB – 1023 Peoples Trust Mortgage, LLC d/b/a Peoples Choice Mortgage – 6/12/06                                | MB – 2918 Hudson Executive Mortgage Corporation – 8/1/06   |
| MLB – 241 Liberty American Mortgage Co. – 6/12/06   | MB – 1551 First Commerce Mortgage Corporation – 8/6/06   |
| MB – 2198 Ever Fund Mortgage LLC – 6/14/06  | MB – 1199 Joanne C. Sebeck d/b/a Cannon Mortgage – 8/7/06  |
| MB – 2067 Royal Mortgage Bankers, Inc. – 6/15/06  | MB – 3277 Merit Financial, Inc. – 8/8/06   |
| MLB – 528 MLI Capital Group, Inc. – SURRENDERED ITS LENDER AUTHORITY ONLY 6/16/06 – NOW LICENSED AS MB - 3557 | MLB – 769 Mortgage Pros, Inc. - SURRENDERED ITS LENDER AUTHORITY ONLY 8/11/06 – NOW LICENSED AS MB – 3620                    |
| MB – 1335 Regency Mortgage, Inc. – 6/19/06  | MLB – 1055 MacArthur & Baker International, Inc. - SURRENDERED ITS LENDER AUTHORITY ONLY 8/14/06 – NOW LICENSED AS MB – 3621 |
| MB – 47 Pegasus Mortgage Services, Inc. – 6/19/06   | MLB – 1004 First Continental Mortgage and Investment Corp. – 8/14/06   |
| MB – 2223 Stonehouse Mortgage Group, Inc. – 6/19/06   | MLB – 387 Fed Funding Mortgage Corporation – 8/15/06   |
| MB – 2367 Complete Mortgage Solutions, Inc. – 6/23/06   |  |
| MLB – 1246 Abbitt Mortgage, LLC – 6/27/06   |  |
| MB – 2722 Foundation Trust Mortgage, LLC – 6/30/06  |  |



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### **Mortgage Licenses Denied**

MLB – 1314 Dynamax Mortgage, Inc. – 5/16/06

MB – 3222 NewMax Mortgage, Inc. – 5/22/06

MLB – 1358 AAA WorldWide Financial Co. – 5/25/06

MB – 2933 Metropolitan Mortgage and Financial Services,  
Corporation – 6/12/06

MB – 3282 Lucree LLC – 6/12/06

MB – 3418 All Star Mortgage, Inc. – 7/12/06

MB – 3304 First Atlantic Financial, L.L.C. – 7/20/06

MB – 3143 LoanPro, LLC – 8/2/06

MLB – 1275 Ark-La-Tex Financial Services, LLC – 8/15/06

### **Mortgage Licenses Revoked**

The following companies' licenses were revoked by the Commission on June 6, 2006 for their failure to file their 2004 and 2005 annual reports in accordance with § 6.1-418 of the Code of Virginia:

ML – 551 American Fidelity, Inc.

MB – 2415 Nationwide Financial Group LLC

The following companies' licenses were revoked by the Commission on June 9, 2006 for their failure to file their 2005 annual report, as required by § 6.1-418 of the Code of Virginia:

MLB – 923 Fidelity First Mortgage, Inc.

MB – 2841 Liberty House Financial Group, L.L.C.

MB – 2006 1<sup>st</sup> Millennium Mortgage, LLC

MB – 2152 Mountain Valley Mortgage Corporation

MB – 1898 Home Equity Loan Products, Inc.

MB – 2445 NationsOne Mortgage, Inc.

MB – 1988 IMA, Inc. d/b/a International Mortgage  
Association

MB – 2380 Park West Mortgage, Inc.

MLB – 856 Integrus Mortgage, LLC

MLB – 878 Service First Mortgage, L.C.

ML – 423 United California Systems International, Inc.

### **Fines Paid by Mortgage Licensees**

MLB – 662 Atlantic Bay Mortgage Group, L.L.C. – entered into a settlement on 6/15/06 and paid \$20,000 for violating various laws applicable to the conduct of its licensed business

ML – 523 Flick Mortgage Investors, Inc. – entered into a settlement on 6/9/06 and paid \$2,500 for failing to produce documents that had been repeatedly requested by the Bureau

MB – 1713 Virginia Sismanoglou d/b/a Capricorn Mortgage Co. – entered into a settlement on 6/29/06 and paid \$2,500 for violating various laws applicable to the conduct of her licensed business

### **Other Fines Paid**

Eric Morgenson – paid \$1,000 settlement on 5/18/06 for failure to obtain Commission approval prior to obtaining 25% of the stock of Nationwide Lending Corporation (MLB-648), in violation of § 6.1-416.1 of the Code of Virginia

Timothy J. Burke – paid \$1,000 settlement on 5/18/06 for failure to obtain Commission approval prior to obtaining 25% of the stock of Nationwide Lending Corporation (MLB-648), in violation of § 6.1-416.1 of the Code of Virginia

## Amended Rules Governing Mortgage Lenders and Brokers: (continued from page 1)

whether a licensee has provided the disclosure and that it contains the information required by the regulation. Although it is up to each licensee to demonstrate compliance with the regulation, the Bureau considers a copy of the disclosure bearing the consumer's signature to be the best source of documentation. Records should be retained in accordance with § 6.1-417 of the Code of Virginia.

**Question:** Will "prequalification" letters be treated the same as "pre-approval" letters?

**Answer:** No. Only letters containing the word "preapproved" (or "pre-approved") trigger the disclosure requirements in 10 VAC 5-160-20 (6).

**Question:** Will the Bureau develop a model disclosure form or model language for the pre-approval disclosure form?

**Answer:** The Bureau does not plan to do so at this time.

**Question:** In advertisements, can a licensee state that it is licensed by the "VA SCC" instead of stating that it is licensed by the "Virginia State Corporation Commission?"

**Answer:** No. Licensees must use the exact language found in the regulation.

**Question:** Do business cards or company letterhead fall under the definition of "advertisement?"

**Answer:** Although these items are sometimes used for advertising purposes, the Bureau will consider business cards and stationery to be promotional items like pens, pencils and notepads (see definition of "advertisement"). Accordingly, the Bureau will not require business cards and stationery (letterhead) to bear the disclosures specified in 10 VAC 5-160-60 A.

**Question:** Are the rate lists that are compiled and published by a newspaper considered to be "advertisements?"

**Answer:** No.

**Question:** If an ad was ordered by a licensee prior to the Commission's final order dated April 24, 2006, may the licensee continue to run the ad after September 1 if the ad does not comply with the new regulation?

**Answer:** All advertisements used or published on or after September 1, 2006 must comply with the regulation. Advertisements appearing in telephone books and other publications that were published prior to September 1 (and will remain in circulation after September 1) will not need to comply with the advertising regulation. However, if a licensee has the ability to modify the contents of the advertisement after September 1, we will expect the advertisement to comply with the regulation.

**Question:** My company's solicitation/direct mail advertisement contains most of the information on the front page, but the information required by the regulation appears on the back of the page. Does that meet the requirement that disclosures be made "clearly and conspicuously?"

**Answer:** According to 10 VAC 5-160-60 H, "clearly and conspicuously" means that a required disclosure is "reasonably understandable, prominently located, and readily noticeable by a potential borrower of ordinary intelligence." It is the Bureau's opinion that disclosures appearing on the back of a page and/or in less than 10-point type would generally not be considered "prominently located" or "readily noticeable". However, if the front of the solicitation includes a clear and conspicuous statement referencing the location of the required disclosures, the requirement will be met. (For example: PLEASE SEE IMPORTANT DISCLOSURES REQUIRED BY VIRGINIA LAW ON THE BACK OF THIS LETTER)



**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!**