

# COMMONWEALTH OF VIRGINIA

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## VIRGINIA HOUSING COMMISSION

### Meeting Summary

Mortgage Finance Regulatory Issues Work Group  
General Assembly Building, House Room C  
Richmond, Virginia  
August, 19, 2008; 1:00 PM

**Members Present:** Delegate Daniel Marshall, Delegate Terrie Suit, Delegate Bob Hull, Gary Garczynski, Melanie Thompson, Ted McCormack, Dana Fenton, Brian Gordon, Chip Dicks, Connie Chamberlin, Steve Baugher, Bill Shelton, Shea Hollifield, Mike Toalson, Michelle Watson, Fay Silverman, Joe Face, John Powell, Travis Hill and Marc Cheatham.

#### I. Welcome and Call to Order-Delegate D. Marshall, Chair

- a. Delegate Marshall called the meeting to order at 1:00pm and had all members of the workgroup introduce themselves.

#### II. Federal Housing and Economic Recovery Act, Safe Mortgage Licensing Act of 2008

- a. *Federal Reserve Bank of Richmond-Joan T. Garton, Assistant Vice President*
  - i. Please see power point presentation available online.
  - ii. The data from mortgage foreclosures from April 2008 is just now available. It is available online on the VHC website.
  - iii. The new rules set up a new category of loans which will also encompass the sub-prime market. This is in addition to the protections that are already in place. These new rules apply to higher cost mortgages.
  - iv. **Delegate Suit**-*Is there a difference between the conforming and non-conforming loans? There are already others out there past the 1.5% limit.*
  - v. No there does not seem to be a differentiation.
  - vi. The new rules only cover consumer home purchases secured by the consumer's primary household.
  - vii. It would not include home equity loans and reverse mortgages.
  - viii. Creditors are prohibited from lending based on collateral without taking into account the borrower's ability to repay.
  - ix. With regard to Yield Spread Premiums, there is more that needs to be done to prevent abuse.
  - x. Advertising provisions have also been amended.
  - xi. **Delegate Hull**-*Is there a requirement that the borrower be able to repay the loan within a certain term?*

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DELEGATE JOHN A. COSGROVE  
DELEGATE ROSALYN R. DANCE  
DELEGATE ROBERT D. HULL  
DELEGATE DANIEL W. MARSHALL, III  
DELEGATE TERRIE L. SUIT

SENATOR MAMIE E. LOCKE  
SENATOR JOHN C. WATKINS  
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI  
T. K. SOMANATH  
MELANIE S. THOMPSON

- xii. There is an exception involving balloon payments.
  - xiii. They determine whether consumer can pay at the highest rate with their current income and the percentage rate at that time within a set time period.
  - xiv. **Mike Toalson**-*Has the Federal Reserve Bank done any research to determine what percentage of the loans were due to unscrupulous practices?*
  - xv. No.
  - xvi. **Mike Toalson**-*It is fascinating that where the highest foreclosure rates are is also where the most wealth is located. Significantly higher priced houses are the ones being foreclosed on even without an unscrupulous lender.*
  - xvii. **Connie Chamberlin**-*Who is going to enforce these rules?*
  - xviii. The SCC will address these issues.
  - xix. **Delegate Suit**-*As a result of HB 1487, any regulation that existed at a Federal level will be addresses by the Housing Commission.*
  - xx. **Gary Garczynski**-*How many banks in the past two years are under the watch list?*
  - xxi. The number has grown.
- b. *State Corporation Commission-E. Joseph Face, Jr., Commissioner, Bureau of Financial Institutions*
- i. Please see the power point presentation available online.
  - ii. The most important information is highlighted in red on the power point.
  - iii. The new regulations set minimum standards. The states can do more, but if they do not meet the minimum in one year, HUD will come in and take over.
  - iv. Virginia needs to determine the definition of "control" because there are federal regulations that will require employees of lenders to do something because they fall under Reg Z but the institution itself is not under the state rules.
  - v. Several aspects of Virginia law meet the minimum standards but others do not, including the fact that there is no written test requirement in Virginia.
  - vi. **Delegate Marshall**-*What is the federal government going to do if the states don't meet this set of minimum requirements? HUD doesn't have the resources to run all of this.*
  - vii. **Delegate Suit**-*Some of this was already anticipated in HB 1487. The Housing Commission would review all the legislation and determine how to respond. The SCC is the better place to house these regulations.*
  - viii. **Joe Face**-*Title 5 is directed toward mortgage loan originators only.*
  - ix. **Mike Toalson**-*How long do the individual originators have to meet those requirements?*
  - x. No timeline has been set yet.
  - xi. **Delegate Suit**-*The legislation says a good faith effort must be made within the year to avoid HUD involvement, not necessarily a complete legislation package.*

- xii. VHDA is not exempt; their agents must now be licensed.
  - xiii. The HUD Secretary may extend the time period to no more than 24 months if a good faith effort is made.
  - xiv. Legislation sets forth the minimum standards, we don't have to meet those standards, but HUD will do it if Virginia does not. We can also go above and beyond the minimum standards.
  - xv. **Michele Watson**-*Has there been any discussion about testing to meet other state's standards?*
  - xvi. Mr. Ryan can speak to that.
- c. *Conference of State Bank Supervisors-John W. Ryan, Executive Vice President*
- i. Mortgage lending industry has moved from a bank-loan officer to a variety of channels for a broker to secure a loan.
  - ii. A loan can be inside or outside the banking system and then sold to Wall Street.
  - iii. The states have adapted to this better than the federal government has so far.
  - iv. Virginia was one of the first to adapt to this new business model.
  - v. Congress looked at the big picture from Wall Street to the originators and tried to encompass it all in this legislation.
  - vi. There is going to be more legislation coming and we are only half way through this cycle.
  - vii. Every state is going to have to legislate in the next year to meet these standards.
  - viii. HUD is going to Congress for appropriations to work from. HUD is willing to work with us because they don't want to this.
  - ix. This will be self-funded through fees.
  - x. **Delegate Hull**-*Will model legislation for the states be created?*
  - xi. Yes, a working group of states will be creating model legislation to meet HUD standards. We are trying to get some consensus and approval from HUD.
  - xii. **Delegate Hull**-*Is there any aspect of the current legislation that deals with providing knowledge to the borrowers?*
  - xiii. No, not in this legislation. Those are the sorts of things that we are going to see in the next Congress.
  - xiv. **Mike Toalson**-*Will this apply to every person that originates mortgage loans?*
  - xv. Yes, everyone is going to have to be registered.
  - xvi. Registration will apply to bank employees, licensing will not be required.
  - xvii. State licensing will not apply to bank employees.
  - xviii. Registration is a one time deal per employer
  - xix. **Gary Garczynski**-*Who brought this about?*
  - xx. In the House of Representatives it was Representative Spencer Backus.
  - xxi. It became incorporated in the bill proposed by Representative Barney Frank.

- xxii. **Delegate Hull**-*What is your thinking on availability of mortgage loans based on these regulations? Will it lead to availability going down?*
- xxiii. There shouldn't be any direct impact with regards to licensing.
- xxiv. This market reaction is going to go on for a long, long time.
- xxv. The rulemaking is not going to tighten, the market will do that on its own.
- xxvi. A majority of states have loan originator licensing, but most don't meet these minimum standards.
- xxvii. **Mike Toalson**-*What might the registration and licensing costs might be?*
- xxviii. Registration is unknown. It will be worked out among the banking agencies.
- xxix. Licensing costs will adjust, but currently \$35-\$100 based on a fee schedule.
- xxx. **Delegate Suit**-*Do you envision this will be eventually like the blue sky laws for securities where it will apply across the country?*
- xxxi. Yes, we want it to be uniform across the country, but there may be additional state components. We do not see it in the near term, but it is possible in the future.
- xxxii. **Connie Chamberlin**-*Where do we go from here? There seem to be three issues: regulatory and licensing issues; mortgage brokers; and who is going to be in charge of enforcing the new regulations?*
- xxxiii. **Delegate Suit**-*This particular work group will focus on the licensing piece, working directly with the SCC. The SCC is already hard at work on developing the model .*
- xxxiv. **Fay Silverman**-*The SCC recently announced new requirements for education that become effective May 1st, so we will have to be conscious of those requirements as well.*
- xxxv. Delegate Hull-Thanked the Chair, Delegate Marshall for setting this up and thanked the presenter for their help.

### **III. The meeting adjourned at 2:48 PM.**