

Meeting Summary
April 20, 2010; 10:00 A.M.
6th Floor Speaker's Conference Room, General Assembly Building
Richmond, Virginia

Members Present: Delegate D. Marshall (Chair), Senator Watkins, Delegate Dance, James Kinion, Jeff Smith, Steve Baugher, Judson McKellar, Jr., Joe Face, Travis Hill, Bill Ernst, Gerry Milsky, Carrie Hileman, Susan Hancock, Duke deHaas, Nick Kyrus, Chris Whyte, Alex Daniel, Phil Boykin, Brian Gordon, Ralston King, Martin Johnson, Maureen Stinger

Staff Present: Elizabeth Palen

1. Welcome and Call to Order-Delegate Daniel Marshall (Chair)

- Meeting was called to order by Delegate Marshall at 10:00 A.M.

2. Joseph Face, Jr.- Commissioner, Bureau of Financial Institutions, State Corporation Commission

- Provided background and an update regarding Mortgage Loan Originator Licensure in Virginia.
 - o Chapter 16 of Title 6.1 of the Virginia code, effective July 1, 2009, provided for the licensing of mortgage loan originators (MLOs) through the Nationwide Mortgage Licensing System (NMLS).
 - o On February 17, 2009, the Bureau of Financial Institutions (BFI) created an internal Steering Committee to oversee the MLO transition onto NMLS.
 - o The SCC promulgated a regulation to implement Chapter 16.1, and on August 3, 2009, the BFI began accepting MLO applications through NMLS.
 - MLOs have been permitted to apply for a Virginia license since August 3, 2009, and they have until July 1, 2010 to obtain a permanent or provisional license.
 - o NMLS did not have functionality on August 3, 2009 with respect to the State component testing, criminal background checks, and credit report; however, the BFI decided to accept applications and partially process them awaiting complete functionality before approving or denying applications.
 - On October 22, 2009, the State component of testing was established.
 - Also, on January 25, 2010, NMLS began processing criminal background checks.
 - In February 2010, NMLS notified the BFI that credit report functionality was to be postponed from March 2010 to March 2011.
 - As a result, the BFI decided to internally run credit reports for MLO applicants until such operations became functional with NMLS in 2011.
 - o In early March 2010, the BFI notified MLO applicants, who had submitted their applications in 2009 and 2010, that they must complete their applications by April 26, 2010 and May 16, 2010, respectively, or risk having their applications abandoned pursuant to SCC Regulation.

- Those applicants who filed after February 2010 and early March 2010 must complete their applications by June 2, 2010 or risk having their applications abandoned as well.
- o Because the NMLS was not completely functional before January 25, 2010, the BFI has used different dates requiring completion of applications. In addition, the BFI had allowed applicants increased time to complete their applications before “deadline” letters are sent.
- o SCC Regulation 10VAC5-161-30 C provides that if the BFI requests information to complete a deficient application and such information is not received within 60 days of the request, then the application shall be deemed abandoned unless a request for an extension of time is received and approved by the BFI prior to the expiration of the 60-day period.
- o On April 12, 2010, as one final attempt to urge MLOs to complete their applications for licenses in an effort to avoid delays in the process, the SCC issued a press release.
- o Through April 19, 2010, the BFI has received 4,748 applications for licenses and could potentially receive many more by July 1.
- o As of April 19, the BFI has approved 450 applications; 41 have been withdrawn; the remaining have been classified as deficient or incomplete.
 - In an effort to answer questions that were arising with regard to the requirements and application process, the BFI took four actions:
 - Added a section on MLO licensing to the BFI website providing information to the public on the licensing requirements, including FAQs;
 - Placed Virginia MLO requirements and information on the NMLS website;
 - Established an e-mail address (mlo@scc.virginia.gov) dedicated to answering inquiries regarding MLO licensing; and
 - Established a telephone line dedicated to answering inquiries regarding MLO licensing requirements.
 - To date, the BFI has answered more than 700 e-mails and thousands of telephone inquiries on MLO licensing.
- o Due to budgetary constraints, the BFI employed and trained a variety of internal Commission and BFI staff on a temporary basis to aid in the processing of MLO applications rather than hiring a permanent new staff.
 - It has become clear that the MLO application process involves more time-consuming special attention from staff.
- o Currently, 4,227 applications are classified as deficient or incomplete. In addition, these applications contain one or more issues that require a more extensive investigation than was originally anticipated.
- o The BFI has clearly identified its necessary goals with respect to MLO license applications and examinations:
 - Complete the processing of MLO applications filed through NMLS by July 1, 2010;
 - Process new MLO applications received after July 1;
 - Complete the renewal of MLO licenses each year between November 1-December 31, as required by NMLS;

- Complete requests for reinstatement of licenses each year between January 1-March 1, as required by NMLS;
- Process changes in licensee status filed by MLOs through NMLS throughout the year;
- Process other state or jurisdictional actions and notices taken against MLOs through the year; and
- Examine licensees cited for violations of law and regulation.
- o As required by statute, the BFI will use provisional licensing.
 - The BFI has contacted the Governor's Office to request an amendment to the provisional licensing statute for the Reconvened Session on April 21, 2010; the amendment would increase the provisional licensing period from six to twelve months.
- o In addition to overseeing the MLO application process, the BFI has also undertaken two other major tasks:
 - The regulation of Motor Vehicle Title Lending (MVTL); and
 - The transitioning onto NMLS of currently licensed mortgage companies, i.e. lenders and brokers.
- o Senate Bill 606, which has been signed by the Governor and placed in the Virginia Code (Chapter 477), provides for the licensing of MVTL by the SCC.
 - The SCC shall establish a procedure, effective by August 1, 2010, for any person to apply for and be granted a license by October 1, 2010.
 - New licensing application and examination procedures must be established for this previously unregulated industry.
- o The BFI intends to hire two additional financial analysts and two senior technicians for the purpose of processing both MLO and MVTL applications.
 - With the help of this additional staff, the BFI projects that MLO and MVTL applications should be processed by July 1, 2011 and October 1, 2010, respectively.
- o Senior NMLS staff has reported that NMLS expects to transition as many as 180,000 or more bank-affiliated MLOs over a 90-day period toward the end of 2010, which is expected to cause some delays.
 - Given this development and in addition to all of the tasks previously mentioned, the BFI has scheduled the transition of existing Virginia mortgage companies onto the NMLS for later this year or early next year.
- o Pursuant to 6.1-431.21E of the Virginia code, the BFI is preparing a report on the following:
 - Review the proposed budget, fees, and audited financial statements of the State Regulatory Registry (SRR);
 - Report to the Virginia House and Senate Legislative Committees on the operations of the SRR, including compliance with its established protocols for securing and safeguarding personal information in the SRR; and
 - Prepare, publicly announce, and publish a report that summarizes statistical test results and demographic information to be prepared by the SRR or its test administrator, if available.
- o Questions/comments regarding the testing ensued:

- Questions have arisen regarding the difficulty of the testing; MLOs have complained that the state test is too difficult.
- There is only a 46% passage rate of the state testing while there is a 78% passage rate of the national testing.
- o **Delegate Marshall**—*There is also an educational requirement involved. I was under the impression that the MLOs had to complete the educational requirement before they sat for the exam. I also thought that they were required to engage in ongoing education.*
 - Although there are educational requirements, the MLOs are not obligated to complete those requirements before the testing. There are also continual education requirements.
 - In an attempt to encourage MLOs to complete the education requirement before sitting for the test, there have been attempts to develop a curriculum that will be offered at various community colleges around the state.
- o **Susan Hancock**—*There were study guides posted online. If the MLOs looked at those study guides, they should have been able to pass. I think the problem is that many of the MLOs believed that they already knew the information they were to be tested on, and they didn't find studying necessary. Hopefully, MLOs will enroll in the course that will be offered at community colleges because the course will cover all of the topics relevant to the state testing.*
- o **Joe Face**—*My personal opinion is that this is certainly not a test where an MLO can assume that because they have been in the business for 30 years they will pass the test. By way of example—someone who has been driving for several years may not be able to pass the DMV test on any given day. I would think that someone who was required to re-take their DMV driving test would study before the exam. Personally, I do not believe the MLO state testing is too difficult; everything the MLOs are required to know is stated in the Virginia Code and Virginia Regulations.*
- o General questions and comments ensued:
- o **Senator John Watkins**—*Of the applications that are left incomplete, are the applicants aware that their applications are not complete?*
 - Yes, we notify them by email.

3. Duke deHaas-Deputy Commissioner, State Corporation Commission

- Invited by Mr. Face to brief the members on the unofficial review of Virginia MLO law by HUD for compliance with the SAFE Act.
- o Outlined six preliminary issues/problems HUD found with Virginia's law. Noted, issues are preliminary since HUD has yet to conclude rulemaking, accordingly no action required at this time.
 - Virginia's definition of MLO does not include individuals who originate loans on dwellings.
 - May require legislative change
 - Virginia's definition of MLO contains an exemption for "any individual acting as an individual loan servicer." HUD has proposed a rule to include in its definition of MLO an individual performing a mortgage loan modification that involves offering or negotiating of loan terms that are materially different

from the original loan. Refinancing would be considered a loan modification if HUD includes these as loan originator activities.

- This will require legislative change.
- Provisional licensing, § 6.1-431.12, does not comply with the SAFE Act licensing requirement. According to HUD, a loan originator license may be issued only upon evidence sufficient to support findings by the state agency that each of the minimum SAFE Act licensing requirements have been met.
 - Will require legislative change.
- Virginia's legislation does not contain a provision requiring licensees to submit reports of condition to the NMLS. The SAFE Act, § 1503, requires reports of condition to be submitted to the NMLS.
 - Provision could be added to rules at 10 VAC 5-161-60. May be more appropriate for the rulemaking process than the legislative process.
- According to HUD, Virginia's legislation does not contain any provision that specifically requires loan originators to continue to meet minimum licensing standards in order to renew their license. The SAFE Act and proposed rule from HUD mandate that a state require an individual seeking to renew his/her MLO license to continue to meet the minimum standards for license issuance.
 - Virginia actually has this requirement in 10 VAC 5-16-40(C)(2). Plans to request HUD review Virginia regulation.
- The SAFE Act, § 1508(d)(3)-(4) and HUD's proposed rule § 3400.11 both include provisions requiring certain reporting and processes pertaining to the NMLS. HUD states that Virginia's legislation does not contain the required provisions.
 - The issue could be dealt with either through the rulemaking process or the legislative process through a change to § 6.1-431.21 that could be drafted. We do not need to wait until the rulemaking process concludes.

4. The meeting adjourned at 12:15 PM.