

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 6.1-409, 6.1-410, and 6.1-431.13 of the Code of Virginia, relating to Nationwide Mortgage Licensing System and Registry.

[H 547]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.1-409, 6.1-410, and 6.1-431.13 of the Code of Virginia are amended and reenacted as follows:

§ 6.1-409. Definitions.

As used in this chapter, the following words and terms shall have the following meanings unless the context requires a different meaning:

"Commissioner" means the Commissioner of the Bureau of Financial Institutions.

"Mortgage broker" means any person who directly or indirectly negotiates, places or finds mortgage loans for others, or offers to negotiate, place or find mortgage loans for others. Any licensed mortgage lender that, pursuant to an executed originating agreement with the Virginia Housing Development Authority, acts or offers to act as an originating agent of the Virginia Housing Development Authority in connection with a mortgage loan shall not be deemed to be acting as a mortgage broker with respect to such mortgage loan but shall be deemed to be acting as a mortgage lender with respect to such mortgage loan, notwithstanding that the Virginia Housing Development Authority is or would be the payee on the note evidencing such mortgage loan and that the Virginia Housing Development Authority provides or would provide the funding of such mortgage loan prior to or at the settlement thereof.

"Mortgage lender" means any person who directly or indirectly originates or makes mortgage loans.

"Mortgage loan" means a loan made to an individual, the proceeds of which are to be used primarily for personal, family or household purposes, which loan is secured by a mortgage or deed of trust upon any interest in one- to four-family residential property located in the Commonwealth, regardless of where made, including the renewal or refinancing of any such loan, but excluding (i) loans or extensions of credit to buyers of real property for any part of the purchase price of such property by persons selling such property owned by them, (ii) loans to persons related to the lender by blood or marriage, and (iii) loans to persons who are bona fide employees of the lender. "Mortgage loan" shall not include any loan secured by a mortgage or deed of trust upon any interest in a more than four-family residential property or property used for a commercial or agricultural purpose.

"Nationwide Mortgage Licensing System and Registry" or "Registry" means the mortgage licensing and registration system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

"Person" means any individual, firm, corporation, partnership, association, trust, or legal or commercial entity or group of individuals however organized.

"Principal" means any person who, directly or indirectly, owns or controls (i) ten percent or more of the outstanding stock of a stock corporation or (ii) a ten percent or greater interest in a nonstock corporation or a limited liability company.

"Residential property" means improved real property used or occupied, or intended to be used or occupied, for residential purposes.

§ 6.1-410. License requirement.

A. No person shall engage in business as a mortgage lender or a mortgage broker, or hold himself out to the general public to be a mortgage lender or a mortgage broker unless such person has first obtained a license under this chapter. However, subject to such conditions as the Commission may prescribe, an individual who is a bona fide employee or exclusive agent of a person licensed under this chapter may negotiate, place or find mortgage loans without being licensed as a mortgage broker.

B. Every mortgage lender and mortgage broker required to be licensed under this chapter shall register with the Registry and be subject to such registration and renewal requirements as may be established by the Registry, in addition to any requirements of this chapter. In adopting rules and regulations pursuant to § 6.1-421, the Commission shall include any terms, conditions, or requirements applicable to such registration and renewal. Any fees required by the Registry shall be separate and apart from any fees imposed by this chapter. The Commission, at its discretion, may collect any registration and renewal fees on behalf of the Registry and remit such fees to the Registry or permit the Registry to collect any fees imposed by this chapter and remit such fees to the Commission.

C. In connection with its implementation and administration of this chapter, the Commission may

57 *establish agreements or contracts with the Registry or other entities designated by the Registry to*
 58 *collect, distribute, and maintain information and records, and process fees related to mortgage lenders*
 59 *and mortgage brokers required to be licensed under this chapter. In establishing such agreements or*
 60 *contracts, the Commission shall not be subject to the Virginia Public Procurement Act (§ 2.2-4300 et*
 61 *seq.).*

62 § 6.1-431.13. Provisional mortgage loan originator license.

63 A. A mortgage loan originator applicant who has completed and filed with the Commission and the
 64 Registry all information, documents, and requirements for licensure pursuant to this chapter shall be
 65 provided a provisional license, registration, and unique identifier as a mortgage loan originator for the
 66 period prior to action being taken on his application by the Commission if (i) the applicant is employed
 67 by or contracted to act as a mortgage loan originator for a person licensed under Chapter 16 (§ 6.1-408
 68 et seq.), and (ii) a senior officer or principal of such person attests to the Commission that:

69 1. If the applicant is not currently or has not within the six-month period prior to the date of
 70 application been acting as a mortgage loan originator or a state-licensed mortgage loan originator in
 71 another state under provisions of § 1507 of the federal Secure and Fair Enforcement for Mortgage
 72 Licensing Act of 2008 (P.L. 110-289):

73 a. The applicant has never had a mortgage loan originator license denied, revoked, or suspended in
 74 any governmental jurisdiction;

75 b. The Commission has not denied the application of or revoked or taken any adverse action with
 76 respect to any license held by the applicant during the five-year period ending on the date of filing of
 77 the application;

78 c. The applicant has not been convicted of a felony that would otherwise authorize the Commission
 79 to deny a license;

80 d. The application meets or exceeds all of the applicable requirements of this chapter for licensure;
 81 and

82 e. The licensed person will be responsible for the acts of the applicant during the period that such
 83 application is pending; or

84 2. If the applicant is currently or has within the six-month period prior to the date of the application
 85 been acting as a registered mortgage loan originator or a state-licensed mortgage loan originator in
 86 another state under provisions of § 1507 of the federal Secure and Fair Enforcement for Mortgage
 87 Licensing Act of 2008 (P.L. 110-289):

88 a. The applicant has never had a mortgage loan originator license denied, revoked, or suspended in
 89 any governmental jurisdiction; and

90 b. The applicant has not been convicted of a felony that would otherwise authorize the Commission
 91 to deny a license.

92 B. Any provisional license issued pursuant to this section shall expire on the earlier of the following:

93 1. The date upon which the Commission issues or denies the license applied for; or

94 2. ~~Six~~ Twelve months from the date the provisional license was issued.

95 C. The Commission may (i) suspend or revoke the license of, or (ii) impose a fine not exceeding
 96 \$2,500 upon, a person licensed under Chapter 16 (§ 6.1-408 et seq.) if the Commission finds that the
 97 licensee, or a senior officer or principal thereof, did not make the certification or undertaking set forth in
 98 subsection A in good faith.