

LD0662845

SENATE BILL NO. 739

Offered January 13, 1995

A BILL to amend and reenact §§ 6.1-411, 6.1-417 and 6.1-424 of the Code of Virginia, relating to the Mortgage Lender and Broker Act.

Patron—Colgan

Referred to the Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.1-411, 6.1-417 and 6.1-424 of the Code of Virginia are amended and reenacted as follows:

§ 6.1-411. Persons exempt from chapter.

The following shall be exempt from the licensing and other provisions of this chapter:

1. ~~Persons~~ *Lenders* making ten or ~~less~~ *fewer* mortgage loans in any period of twelve consecutive months;

2. Any person subject to the general supervision of or subject to examination by the Commissioner pursuant to Chapter 2 (§ 6.1-3 et seq.), Chapter 3.01 (§ 6.1-194.1 et seq.), Chapter 4.01 (§ 6.1-225.1 et seq.), Chapter 5 (§ 6.1-227 et seq.) or Chapter 13 (§ 6.1-381 et seq.) of this title;

3. Any lender authorized to engage in business as a bank, savings institution or credit union under the laws of the United States, any state or territory of the United States, or the District of Columbia, and subsidiaries and affiliates of such entities which lender, subsidiary or affiliate is subject to the general supervision or regulation of or subject to audit or examination by a regulatory body or agency of the United States, any state or territory of the United States, or the District of Columbia;

4. Nonprofit corporations making mortgage loans to promote home ownership or improvements for the disadvantaged;

5. Agencies of the federal government, or any state or municipal government, or any quasi-governmental agency making mortgage loans under the specific authority of the laws of any state or the United States, including without limitation the Virginia Housing Development Authority and its agents and representatives with respect to their activities in offering, accepting, completing and processing mortgage loan applications under its programs;

6. Persons acting as fiduciaries with respect to any employee pension benefit plan qualified under the Internal Revenue Code who make mortgage loans solely to plan participants from plan assets;

7. Any insurance company;

8. [Repealed.]

9. Persons licensed by the Commonwealth as attorneys, real estate brokers, or real estate salesmen, not actively and principally engaged in negotiating, placing or finding mortgage loans, when rendering services as an attorney, real estate broker or real estate salesman; however, a real estate broker or real estate salesman who receives any fee, commission, kickback, rebate or other payment for directly or indirectly negotiating, placing or finding a mortgage loan for others shall not be exempt from the provisions of this chapter;

10. Persons acting in a fiduciary capacity conferred by authority of any court; and

11. Persons licensed as small business investment companies by the Small Business Administration.

§ 6.1-417. Retention of books, accounts and records.

A. Every ~~tender~~ *lender* or broker required to be licensed under this chapter shall maintain in its *licensed* offices such books, accounts and records as the Commission may reasonably require in order to determine whether such lender or broker is complying with the provisions of this chapter and rules and regulations adopted in furtherance thereof. Such books, accounts and records shall be maintained apart and separate from any other business in which the lender or broker is involved.

B. Each mortgage lender required to be licensed under this chapter shall retain for at least three years after final payment is made on any mortgage loan or the mortgage loan is sold, whichever first occurs, copies of the note, settlement statement, truth-in-lending disclosure and such other papers or records relating to the loan as may be required by rule or regulation. Each mortgage broker required to be licensed under this chapter shall retain for at least three years after a mortgage loan is made the original contract for his compensation, a copy of the settlement statement, and an account of fees received in connection with the loan, and such other papers or records as may be required by rule or regulation.

§ 6.1-424. Advertising.

No mortgage lender or broker required to be licensed under this chapter shall use or cause to be published any advertisement which:

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- 60 1. Contains any false, misleading or deceptive statement or representation; *or*
61 ~~2. Contains any reference to the fact that such lender or broker is regulated or supervised by the~~
62 ~~Commission; or~~
63 3 2. Identifies the lender or broker by any name other than the name set forth on the license issued
64 by the Commission.