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HOUSE BILL NO. 39

Offered January 10, 1996

A BILL to amend and reenact § 6.1-409 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 6.1-410.1, relating to the Mortgage Lender and Broker Act; broker's agent.

Patron—Callahan

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

1. That § 6.1-409 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 6.1-410.1 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:

"Broker's agent" means a category of mortgage broker's license that is issued to individuals who broker mortgage loans exclusively to one licensed mortgage broker, designated as a sponsoring broker, and who are not employees of such sponsoring broker.

"Commission" means the State Corporation Commission.

"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.

"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 owner-occupied 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 that is made primarily for a business, commercial, or agricultural purpose.

"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.

"Sponsoring broker" means a licensed mortgage broker who negotiates or arranges mortgage loans on behalf of a broker's agent and provides indemnification of such broker's agent in order to protect borrowers from monetary damages which may be a result of doing business with a broker's agent.

§ 6.1-410.1. Broker's agent license; application; fees.

A. An applicant for a mortgage broker license may apply for a broker's agent license subject to the following:

1. The applicant shall be an individual.

2. The applicant shall be exempt from the bond requirement of § 6.1-413 by satisfying the Commissioner that no advance fees whatsoever are accepted or collected, and no fees may be accepted or collected from borrowers.

3. The applicant shall demonstrate to the satisfaction of the Commissioner that he solicits mortgage loan applications exclusively for one licensed mortgage broker known as the sponsoring broker.

4. The holder of a broker's agent license, if he uses advertising to solicit or obtain customers for his mortgage brokerage business, may not advertise in his own name alone but shall advertise his name only in conjunction with the name of the sponsoring broker.

B. The sponsoring broker shall enter into an indemnification agreement in a form provided by the Commissioner to protect borrowers from any monetary damages which may result from doing business with a broker's agent.

C. The application shall be accompanied by an application fee of \$50.

D. The provisions of § 6.1-415 shall not be applicable to applicants who satisfy all requirements of

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60 *this section.*