

Compliance

The Compliance Unit is responsible for monitoring the business activities of over 6,000 licensees to ensure compliance with State and federal laws and regulations.

Md. Code Ann., Financial Institutions §11-515(a)(2)(ii) requires examination of **new mortgage lender licensees within 18 months** of the date the license is issued, and at least once during any 36-month period.

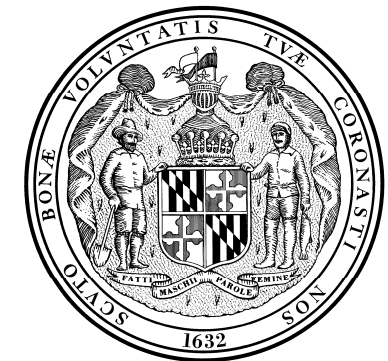
FREQUENT COMPLIANCE VIOLATIONS

1. **BROKER AGREEMENT** (Commercial Law §12-804)
 - No broker agreement issued
 - Broker agreement is not separate and distinct.
 - Broker agreement lacking signatures, dates
 - Broker agreement fails to specify the amount or percent of the loan that will be the broker fee.
 - The broker fee collected at settlement is greater than the fee specified in the agreement.
2. **FINANCING AGREEMENT** (Commercial Law §12-125)
 - No agreement issued
 - Incomplete financing agreement information
 - Financing Agreement lacking signatures and/or date issued
3. **INCOMPLETE ADVERSE ACTION NOTICES**
Lacking:
 - Date of action
 - Reason for adverse action
 - Correct information concerning supplier of information
4. **GOOD FAITH ESTIMATES**
 - Lacking provider information
5. **TRUTH-IN-LENDING DISCLOSURE**
 - Incorrect APR
 - Incorrect schedule of payments
 - Incorrect information
 - Late charge exceeds statute limitations
6. **TIMELINESS OF DISCLOSURE**
 - Good Faith Estimate
 - Financing Agreement
 - Affiliated business disclosure
 - Truth-In-Lending
 - Broker Agreement
7. **OVERCHARGES ON OTHER FEES**
 - Credit reports ▪ Courier fees
 - Appraisals ▪ Other third party fees
8. **NON W-2 LOAN RELATED EMPLOYEES**
 - USE OF INDEPENDENT CONTRACTORS (1099 COMPENSATION) AS LOAN ORIGINATORS
9. **MISSING DOCUMENTS**

State of Maryland Department of Labor, Licensing and Regulation

Commissioner of Financial Regulation

Regulatory Guidelines for Mortgage Lender Licensees



Martin O'Malley
Governor

Alexander M. Sanchez
Secretary

Mark Kaufman
Commissioner

Enforcement

The Enforcement Unit is responsible for investigating fraud, predatory lending, financial misappropriation, and other violations of law applicable to financial institutions whose activities fall under the regulatory oversight of the Commissioner of Financial Regulation.

The authority of the Commissioner includes broad investigative and subpoena powers. This allows for expeditious access to files, documents, financial and telephone records, and any other type of documentation appropriate to the investigation at hand through subpoenas. In FY 2004, the Office issued 130 subpoenas and 34 Cease and Desist Orders.

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Division of Financial Regulation

A General Compliance Guide

This pamphlet highlights general compliance issues encountered by mortgage lender licensees. In addition to the Licensing Unit, mortgage lender licensees may become involved with three different units within the Commissioner's Office, the Consumer Services Unit, the Compliance Unit and the Enforcement Unit. The information disclosed is a licensee's guide to avoiding potential problems.

Accessing Maryland Credit Statutes and Regulations

Website: <http://mlis.state.md.us>

Instructions:

Select Maryland Statutes (bottom of page)

Select Article and Section

(i.e. Commercial Law or Financial Institutions)

COMAR (Code of Maryland Regulations) website:
www.sos.state.md.us

Instructions:

Select – Division of State Documents

Select – COMAR Online

Select – Search a specific title

(09-Department of Labor Licensing and Regulation)

Licensing

Common Errors made by the Industry

- Individuals paid by Form 1099 must be individually licensed.
- Renewal applications (*incomplete application and/or missing supplemental documentation, insufficient surety bond coverage, timeliness of application*)
- Moving without prior approval
- Change of control without approval
- Operating at an unlicensed location

Change of Address

A licensee may not change the place of business for which its license is issued unless it notifies the Commissioner of the proposed change and receives written approval of the Commissioner. If the licensee is not issued an approval or denial within 60 days, the request is deemed approved. If you relocate without prior approval from the Commissioner, the change of address request will be denied and you will be required to reapply for your license.

Change of Entity: Licenses are non-transferable.

Name Change

Before operating in a name other than on your license, you must notify the Commissioner's Office and provide the necessary documents for approval and reissuance of your license in the new name. (Md. Code Ann., Financial Institutions §11-505(d)(2))

Unlicensed Locations: Only one place of business per license. (Each location conducting Maryland mortgage business must be licensed.)

Paying Employees on Form 1099 vs. W-2 Form

W2 employees are covered by the MD Mortgage Lender License held by the company. Loan officers who are paid by 1099 tax forms are independent contractors and are not covered by the company's license. Hiring unlicensed independent contractors is prohibited under COMAR 09.03.06.03.

Sworn Activity

Regulation requires licensees to submit a sworn activity statement after one year after the issuance of a license to ensure that your bond amount is adequate for the second year of the license period.

Renewal

A licensee may renew a license by completing the online renewal application before the expiration of its current license.

Consumer Complaints & Licensee

Any person aggrieved by the conduct of a licensee may file a written complaint with the Commissioner who will investigate the complaint. If you are named in a consumer complaint, a Financial Examiner will contact you for a written response. A licensee's books and records are subject to review during the complaint investigation.

Frequent Complaint Issues

- *Foreclosure*
- *Escrow account practices*
- *Prepayment penalties*
- *Requirements under the Homeowner's Protection Act*
- *Broker agreement (overstating finder's fee, broker agreement not separate and distinct from financing agreement)*
- *Questionable third-party fees*
- *Disclosure issues (rate, points, terms etc...)*
- *Failure to respond to payoff requests*
- *Lender fails to record release*
- *Appraisal transfer requests*
- *Failure to process loan application timely*
- *Loan rescission issues*