STATE BOARD OF FINANCIAL INSTITUTIONS
M I N U T E S
April 6, 2011
Columbia, South Carolina

Upon proper call and due notice to all of its members and after having given required public notice, the State Board of Financial Institutions assembled in a meeting this the 6th day of April 2011, with Chairman Curtis M. Loftis, Jr. presiding. Members present were: Messrs. Anderson, Conley, Gibbons, Hart, Saunders, Slider, Williams and Ms. Marcum. Members absent were Mr. Foster. In attendance were Commissioner Louie Jacobs, Mr. Jim Copeland, Review Examiner, Ms. Kathy Bickham, Assistant Commissioner of Banking, Ms. Amy Wright, Secretary to the Board, and Mr. Phillip Cease, State Treasurer's Office.

On motion of Mr. Gibbons, duly seconded by Mr. Anderson and unanimously carried, the Board approved minutes from the March 2, 2011 meeting.

ITEMS RECEIVED FOR INFORMATION

CONSUMER FINANCE DIVISION

The following Supervised Consumer Finance Licensees have advised of change of address as follows: (a) Security Finance Corporation of South Carolina dba Security Finance from 960 Bacons Bridge Road, Suite 5 to 960 Bacons Bridge Road, Suite 1, Summerville; (b) World Finance Corporation of South Carolina dba World Finance Corporation from 406 East Main Street to 159 South Pine Street, Suite C, Spartanburg; (c) Republic Finance, LLC from 800 North Main Street to 2508 E North Main Street, Anderson; (d) 1st Franklin Financial Corporation from 1617 South Irby Street to 315 Beltline Drive, Florence.

The following Supervised Consumer Finance Licensees have advised of change of name as follows: (a) From American General Financial Services, Inc. to Springleaf Financial Services of South Carolina, Inc.

Notification has been received that the following Restricted Consumer Finance Licenses have been voluntarily surrendered for cancellation:

1. CityCo dba CityCo, 106 Bolt Drive, Laurens.

Notification has been received that the following Supervised Consumer Finance Licenses have been voluntarily surrendered for cancellation:

1. Titlemate Cash Advance SC, LLC, 2651-C Boiling Springs Road, Boiling Springs

2. Around The Clock Title Loans, LLC, 2125 Dorchester Road, North Charleston.
3. Wasson Finance, LLC, 121 North Main Street, Fountain Inn

EXAMINING DIVISION

None.

REGULAR SESSION

Visitor Mr. Charles Knight with the South Carolina Department of Consumer Affairs was recognized.

Mr. Copeland provided the Board a copy of the interpretation from the Department of Consumer Affairs regarding supervised lender servicing loans made prior to January 1, 2010. A copy of the letter from the Department of Consumer Affairs is attached.

On motion of Mr. Slider duly seconded by Mr. Gibbons and unanimously carried, the Board voted to go into Executive Session to discuss confidential business and proprietary matters.

On motion of Mr. Gibbons, duly seconded by Mr. Slider and unanimously carried, the Board returned to Regular Session. No vote was taken in Executive Session.

The following actions were taken in Regular Session on items discussed in Executive Session:

Consumer Finance Division

On motion of Mr. Williams duly seconded by Mr. Anderson and unanimously carried, the Board approved requests for Supervised Consumer Finance Licenses for In-State as follows:

1. Request of AutoMoney, Inc. dba AutoMoney, Inc. of Florence for a Supervised Consumer Finance License to operate at 1359 South Irby Street, Florence, South Carolina 29505. (#active 21)

2. Request of AutoMoney, Inc. dba AutoMoney, Inc. of Sumter for a Supervised Consumer Finance License to operate at 864 Broad Street, Sumter, South Carolina 29150. (#active 21)

3. Request of Carolina Financial of Beaufort, Inc. for a Supervised Consumer Finance License to operate at 121-D Mead Road, Hardeeville, South Carolina 29927. (New)

4. Request of 1st Franklin Financial Corporation for a Supervised Consumer Finance License to operate at 535 South Fifth Street, Suite 4, Hartsville, South Carolina 29550. (#active 38)

5. Request of MCTL Investments, Inc. dba Max Cash Title Loan for a Supervised Consumer Finance License to operate at 1784 Asheville Highway, Suite A, Spartanburg, South Carolina 29303. (New)

6. Request of North American Title Loans, LLC dba North American Title Loans for a Supervised Consumer Finance License to operate at 103 Highway 301 South, Dillon, South Carolina 29536. (#active 23)

7. Request of North American Title Loans, LLC dba LoanMax for a Supervised Consumer Finance License to operate at 301 South Irby Street, Florence, South Carolina. (#active 23)

8. Request of Regional Finance Corporation of SC dba Regional Finance of North Myrtle Beach for a Supervised Consumer Finance License to operate at 867 U.S. Highway 17 South, North Myrtle Beach, South Carolina 29582. (#active 67)

9. Request of Regional Finance Corporation of SC dba Regional Finance of Columbia #2 for a Supervised Consumer Finance License to operate at 7509 Garners Ferry Road, Suite F, Columbia South Carolina 29209. (#active 67)

10. Request of Republic Finance, LLC for a Supervised Consumer Finance License to operate at 2000 Clemson Road, Suite 13, Columbia, South Carolina 29229. (#active 15)

On motion of Mr. Hart duly seconded by Mr. Saunders and unanimously carried, the Board approved requests for Supervised Consumer Finance Licenses for Out-of-State as follows:

11. Request of SCIL, Inc. dba SpeedyCash.com for a Supervised Consumer Finance License to perform certain lending operations in South Carolina from its location at 3611 North Ridge Road, Wichita, Kansas 67205. (New)

12. Request of SCIL, Inc. dba SpeedyCash.com for a Supervised Consumer Finance License to perform certain lending operations in South Carolina from its location at www.speedycash.com (New)

On motion of Mr. Conley duly seconded by Mr. Gibbons and unanimously carried, the Board approved requests for Check Cashing Level II Services as follows:

13. Request of Girdhar Ghadia dba Ghadia ABC Store for a license to provide check cashing Level II services at 2584 Highway #6, Gaston, South Carolina 29053. (New)

14. Request of Penn Petroleum, Inc. dba Sonny's for a license to provide check cashing Level II services at 512 Boone Hill Road, Unit C, Summerville, South Carolina 29483. (New)

15. Request of SKof Sumter, Inc. dba A&P Mart for a license to provide check cashing Level II services at 428 Boulevard Road, Sumter, South Carolina 29150. (New)

Examining Division

16. On motion of Mr. Anderson duly seconded by Mr. Slider and unanimously carried, the Board authorized the Commissioner of Banking to execute administrative procedures.

17. Report by the Commissioner of Banking.

Personnel

18. Personnel Matters

The Board, through consensus, scheduled its next meeting for May 4, 2011.

There being no further business, the meeting was adjourned by acclamation.

The State of South Carolina
Department of Consumer Affairs

3600 FOREST DRIVE, 3RD FLOOR
P.O. BOX 5757
COLUMBIA, S.C. 29250-5757

Brandolyn Thomas Pinkston
Administrator

RECEIVED
MAR 30 2011
STATE BOARD OF FINANCIAL INSTITUTIONS
CONSUMER FINANCE DIVISION

Commissioners
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Vice Chair
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Celebrating Over 30 Years of Public Service

March 29, 2011

Jim Copeland
SC Board of Financial Institutions
Consumer Finance Division

Re: Question concerning servicing existing loans at unlicensed location

Jim:

You have asked the Department whether a lender who is not licensed under Chapter 22 of Title 37 of the *Code of Laws of South Carolina* could service its own mortgage loans made and fully funded before January 1, 2010. Some lenders have made mortgage loans but now have decided not to originate new loans and did not apply for a license as a mortgage lender. These lenders merely want to receive and post payments and liquidate the account. These lenders held supervised lender's licenses at the time the loans were made.

Effective January 1, 2010, the mortgage lending licensing law became effective. This Act changed existing law in a number of ways. The major change was that it required licensing of mortgage lenders for the first time. Section 37-22-120(A) requires a license before a person can act as a mortgage lender. The Act defines mortgage lender as:

> (29) "Mortgage lender" means a person who acts as a mortgage lender as that term is defined in item (2) of this section or engages in the business of servicing mortgage loans for others or collecting or otherwise receiving mortgage loan payments directly from borrowers for distribution to another person. This definition does not include engaging in a tablefunded transaction.

The Act defines act as a mortgage lender in § 37-22-110(2) as:

> (2) "Act as a mortgage lender" means to engage in the business of making or servicing a mortgage loan for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, including soliciting, processing, placing, or negotiating a mortgage loan.

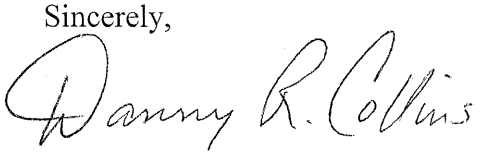
From this definition, the act of servicing loans is acting as a mortgage lender and would require licensing starting January 1, 2010. The Mortgage Lending Act clearly applies to transactions entered after the effective date of the Act. The problem is all the loans in question were made and fully funded before January 1, 2010.

Another significant change by the Mortgage Lending Act was in the definition of supervised loan. Section 37-3-501(1)(a) was amended to remove mortgage loans from the definition of supervised loan. Prior to the effective date of the Act, a supervised lender could make consumer loans secured by a junior lien on real estate and could collect payments on these loans. The Act was intended to apply to transactions after January 1, 2010. Allowing these supervised lenders to continue to collect and post payments on their own existing loans would not violate the spirit of the new law. However, any other activity that occurs after January 1, 2010, such as a modification or a deferral of even these loans, would bring them into the effective time period of the Act and would require that they become licensed as mortgage lenders. To interpret the law to require a mortgage lending license to continue collecting and posting payments on existing loans may raise constitutional issues.

Your secondary question was can an employee accept the payments. The Act clearly exempts employees of a licensee. *S.C. Code Ann.* § 37-22-110(18)(a). Prior to the effect date of the Act, employees of these supervised lenders were allowed to receive and post the payments on their loans. There is no reason they should not be allowed to continue under the same terms.

If you have questions, please let me know.

Sincerely,



Danny R. Collins
Deputy for Regulatory Enforcement

cc: Carri Lybarker, Acting Administrator