

**REVIEW OF THE 2007 SESSION
OF THE VIRGINIA GENERAL ASSEMBLY**

For

VIRGINIA MORTGAGE LENDERS ASSOC.

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If you would like to obtain a copy of a specific measure, you may do so by calling Legislative Information at 804/698-1500 or writing to Legislative Information, P.O. Box 406, Richmond, VA 23218. Information is also available on the Internet at <http://leg1.state.va.us>. Of course, if additional information regarding a specific piece of legislation is desired or if other questions arise, you should feel free to contact Bill Axselle at (804) 783-6405 or Travis Hill at (804) 783-6437.

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TABLE OF CONTENTS

PASSED

HB 1657 Banks; financial activities.....	1
HB 2011 Residential Property Disclosure Act; amends required residential property disclosure statement	1
HB 2579 Mechanic's lien; adds certification of mailing therefor by general contractor	1
HB 2595 Professional and Occupational Regulation, Department of; changes membership of Fair Housing Board	2
SB 745 CRESPA; prohibits felons from acting as settlement agent thereunder	2

FAILED

HB 1877 Credit report; individual who is victim of identity theft may freeze access thereto ...	3
HB 2140 Identity theft; notification of breach of information system	3
HB 2600 Protection of disposed records; businesses to take measures to protect against unauthorized access	3
HB 2681 Credit reports; authorizes any consumer to freeze access to his credit report	4
HB 2744 Fair housing law; unlawful discriminatory housing practice	4
HB 2804 Credit reports; authorizes an individual over age 65 to freeze thereto	4
HB 2963 Credit reports; authorizes any consumer to freeze access thereto	5
HB 3056 Credit reports; authorizes an individual to freeze access to his credit report	5
SB 805 Credit report; individual who is victim of identity theft may freeze access thereto	5
SB 946 Credit reports; authorizes an individual under age of 18 and over 65 to freeze access thereto	6
SB 989 Mortgage loans; prohibits servicers thereof from taking certain actions pertaining to servicing	6

SB 1030 Credit reports; authorizes an individual to freeze access thereto	6
SB 1109 Banks; financial activities	7

Bills That Passed

HB 1657 Banks; financial activities.

Banks; financial activities. Prohibits a bank from establishing or maintaining a branch in Virginia on the premises or property of an affiliate if the affiliate engages in commercial activities, which are defined as activities in which a bank holding company, a financial holding company, a national bank, or a national bank financial subsidiary may not engage under federal law. The measure repeals provisions regarding the commercial activities of industrial loan associations and industrial loan companies. The measure will be effective upon passage.

Patron: Kilgore

HB 2011 Residential Property Disclosure Act; amends required residential property disclosure statement.

Virginia Residential Property Disclosure Act. Amends the required residential property disclosure/disclaimer statement developed by the Real Estate Board by eliminating the disclaimer provisions. Under the bill, the statement will now be a disclosure statement and will contain the six minimum disclosures, thereby conforming to actual usage, requiring the buyer to use due diligence. This bill is a recommendation of the Virginia Housing Commission.

Patron: Suit

HB 2579 Mechanic's lien; adds certification of mailing therefor by general contractor.

Mechanic's lien; required statements. Adds a certification of mailing to § 43-5, the statutory form for a memorandum for mechanic's lien claimed by a general contractor. This bill also adds a statement to the statutory mechanic's lien forms for general contractors, subcontractors (§ 43-8), and sub-subcontractors (§ 43-10) that provides that it is the intent of the claimant submitting the form to claim the benefit of a lien. These statements and the certification are required to be in a mechanic's lien memorandum under § 43-4.

Patron: Janis

HB 2595 Professional and Occupational Regulation, Department of; changes membership of Fair Housing Board.

Department of Professional and Occupational Regulation; Fair Housing Board; membership. Changes the membership of the Fair Housing Board by increasing from one to two the number of representatives of the residential property management industry, at least one of whom is a member of a property owner's or condominium unit owners' association. The bill also decreases from three to two the number of citizen members.

Patron: Rapp

SB 745 CRESPA; prohibits felons from acting as settlement agent thereunder.

CRESPA; settlement agents; convicted felons. Prohibits any person who has been convicted of a felony, unless he has had his civil liberties restored, been pardoned, or granted a writ of actual innocence, from acting as a settlement agent under the Consumer Real Estate Settlement Protection Act. Persons convicted of a felony involving fraud, deceit or misrepresentation are also prohibited from working for settlement agents in a capacity involving the receipt or disbursement of funds from real estate settlements.

Patron: Williams

Bills That Failed

HB 1877 Credit report; individual who is victim of identity theft may freeze access thereto.

Credit report security freeze; penalties. Authorizes an individual who is a victim of identity theft to freeze access to his credit report. If an identity theft victim has placed a freeze on his credit report, a consumer reporting agency is prohibited from releasing the credit report, or any information in it, without the identity theft victim's express authorization. The measure provides a means by which an identity theft victim can release his report, permanently, temporarily, or to a specific third party. Certain disclosures are exempt from the freeze. A consumer reporting agency shall not charge a fee for establishing a freeze, removing a freeze, or temporarily lifting a freeze. Violations are a prohibited practice under the Consumer Protection Act.

Patron: Caputo

HB 2140 Identity theft; notification of breach of information system.

Database breach notification. Requires an individual or a commercial entity that conducts business in Virginia and that owns or licenses computerized data that includes personal information to conduct in good faith a reasonable and prompt investigation when it becomes aware of a breach of the security of the system. If the investigation determines that misuse of information has or is reasonably likely to occur, the individual or commercial entity shall give notice to the Virginia resident as soon as possible. Notification must be made in good faith, in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement and with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system. The bill also contains alternative notification provisions. The Office of the Attorney General may bring an action in law or equity to address violations of this section and other appropriate relief. The provisions of this bill, as they apply to governmental entities, become effective July 1, 2008.

Patron: Brink

HB 2600 Protection of disposed records; businesses to take measures to protect against unauthorized access.

Personal information privacy; protection of disposed records; penalty. Requires businesses to take all reasonable measures to protect against unauthorized access to or use of personal

information in connection with or after its disposal. Reasonable measures include policies and procedures requiring the burning, pulverizing or shredding of papers containing personal information so that the information cannot be read or reconstructed and the destruction or erasure of electronic media so that the information cannot be read or reconstructed. A violation constitutes a prohibited practice under the Virginia Consumer Protection Act.

Patrons: Plum, Bulova, Callahan, Caputo, Ebbin, Marsden, Rust, Scott, J.M. and Watts;
Senators: Howell and Ticer

HB 2681 Credit reports; authorizes any consumer to freeze access to his.

Security freezes on credit reports; penalty. Authorizes any consumer to freeze access to his credit report. If a consumer has placed a freeze on his credit report, a consumer reporting agency is prohibited from releasing the credit report, or any information in it, without the consumer's express authorization. The measure provides a means by which a consumer can release his report permanently, temporarily, or to a specific third party. Consumer reporting agencies may charge a consumer up to \$20 for each freeze, removal of the freeze, or temporary lift of the freeze. A violation is a prohibited practice under the Consumer Protection Act.

Patron: Frederick

HB 2744 Fair housing law; unlawful discriminatory housing practice.

Fair housing law; unlawful discriminatory housing practice. Adds source of income to the list of unlawful discriminatory housing practices. The bill defines source of income as any lawful income used by a person to meet his obligation to pay for the purchase or lease of a dwelling, including payment with (i) federal funds received pursuant to public housing or Section 8 programs of the United States Housing Act of 1937, as amended, (ii) funds received from assistance made available under Chapter 1.2 (§ 36-55.26 et seq.) of Title 35, or (iii) proceeds from a bequest, life insurance policy, annuity, or other like source. The bill contains technical amendments.

Patrons: Englin, Ebbin and McClellan

HB 2804 Credit reports; authorizes an individual over age 65 to freeze thereto.

Identity theft; security freezes. Authorizes an individual who is over the age of 65 to freeze access to his credit report. If such a person has placed a freeze on his credit report, a consumer reporting agency is prohibited from releasing the credit report, or any information in it, without the person's express authorization. The measure provides a means by which a consumer can

release his report permanently, temporarily, or to a specific third party. Consumer reporting agencies may charge a fee not to exceed \$20 for each freeze, removal of the freeze, or temporary lift of the freeze. A violation of this measure is a prohibited practice under the Virginia Consumer Protection Act.

Patrons: Byron and Putney; Senator: Newman

HB 2963 Credit reports; authorizes any consumer to freeze access thereto.

Security freezes on credit reports; penalty. Authorizes any consumer to freeze access to his credit report. If a consumer has placed a freeze on his credit report, a consumer reporting agency is prohibited from releasing the credit report or any information in it without the consumer's express authorization. The measure provides a means by which a consumer may release his report, permanently, temporarily, or to a specific third party. Consumer reporting agencies may charge a consumer up to \$10 for each freeze, removal of the freeze, or temporary lift of the freeze; however, no charge shall be assessed to victims of identity theft. A violation is a prohibited practice under the Consumer Protection Act.

Patron: Bell

HB 3056 Credit reports; authorizes an individual to freeze access to his.

Credit report security freeze; penalties. Authorizes an individual to freeze access to his credit report. If a consumer has placed a freeze on his credit report, a consumer reporting agency is prohibited from releasing the credit report, or any information in it, without the consumer's express authorization. The measure provides a means by which a consumer can release his report, permanently, temporarily, or to a specific third party. Certain disclosures are exempt from the freeze. A consumer reporting agency may charge a fee of no more than \$5 for establishing a freeze, removing a freeze, or temporarily lifting a freeze. Violations are a prohibited practice under the Consumer Protection Act.

Patron: Callahan

SB 805 Credit report; individual who is victim of identity theft may freeze access thereto.

Security freezes on credit reports; penalty. Authorizes any consumer to freeze access to his credit report. If a consumer has placed a freeze on his credit report, a consumer reporting agency is prohibited from releasing the credit report, or any information in it, without the consumer's

express authorization. The measure provides a means by which a consumer can release his report, permanently, temporarily, or to a specific third party. Consumer reporting agencies may charge a consumer up to \$10 for each freeze, removal of the freeze, or temporary lift of the freeze. A violation is a prohibited practice under the Consumer Protection Act.

Patron: Puller

SB 946 Credit reports; authorizes an individual under age of 18 and over 65 to freeze access thereto.

Identity theft; security freezes. Authorizes an individual who is under the age of 18, over the age of 65 if living in a nursing facility or other institution, or a veteran to freeze access to his credit report. If a consumer has placed a freeze on his credit report, a consumer reporting agency is prohibited from releasing the credit report, or any information in it, without the consumer's express authorization. The measure provides a means by which a consumer can release his report permanently, temporarily, or to a specific third party. Consumer reporting agencies may charge a consumer up to \$10 for each freeze, removal of the freeze, or temporary lift of the freeze. A person violating the requirements is liable to an injured person for the greater of actual damages or \$1,000, and reasonable costs and attorney fees.

Patron: Quayle

SB 989 Mortgage loans; prohibits servicers thereof from taking certain actions pertaining to servicing.

Mortgage loan servicing; penalties. Prohibits servicers of mortgage loans from taking certain actions pertaining to the servicing of such loans, including failing to apply payments to the loan and taking actions for the primary purpose of creating a default under the terms of a mortgage loan. The Bureau of Financial Institutions of the State Corporation Commission is given authority to investigate and enforce the provisions under the Mortgage Lender and Broker Act; although mortgage servicers are not required to obtain licenses under that Act.

Patron: Deeds

SB 1030 Credit reports; authorizes an individual to freeze access thereto.

Credit report security freeze; penalties. Authorizes an individual to freeze access to his credit report. If a consumer has placed a freeze on his credit report, a consumer reporting agency is prohibited from releasing the credit report, or any information in it, without the consumer's

express authorization. The measure provides a means by which a consumer can permanently or temporarily un-freeze his report. Certain disclosures are exempt from the freeze. A consumer reporting agency may charge a fee of no more than \$10 for establishing a freeze, removing a freeze, or temporarily lifting a freeze, except that a consumer reporting agency shall not charge a fee to a victim of identity theft. Violations are a prohibited practice under the Consumer Protection Act.

Patron: O'Brien

SB 1109 Banks; financial activities.

Banks; financial activities. Prohibits a bank from establishing or maintaining a branch in Virginia on the premises or property of an affiliate if the affiliate engages in commercial activities, which are defined as activities in which a bank holding company, a financial holding company, a national bank, or a national bank financial subsidiary may not engage under federal law. The measure repeals provisions regarding the commercial activities of industrial loan associations and industrial loan companies. The measure will be effective upon passage.

Patron: Wampler